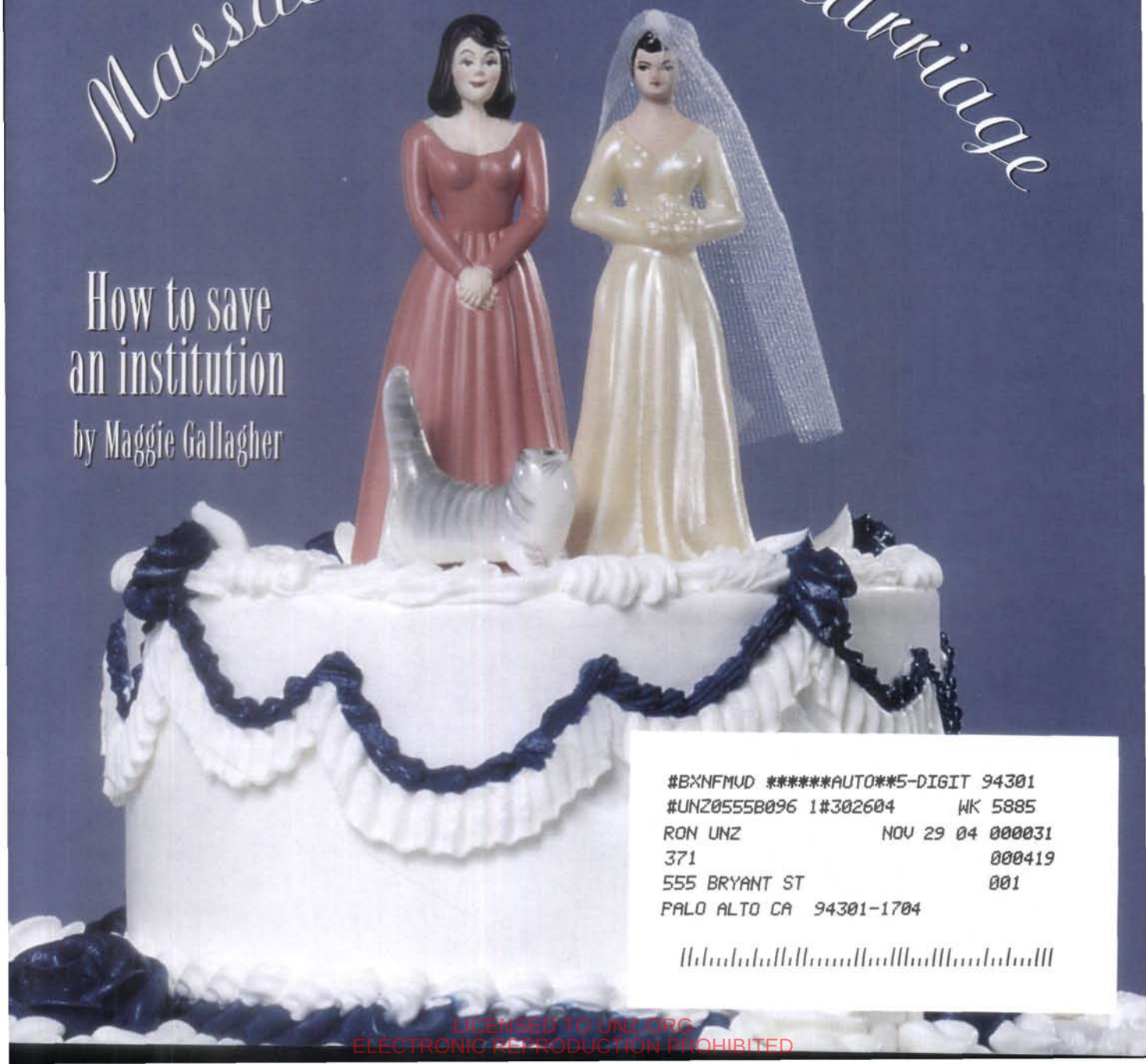
the weekly
Standard

DECEMBER 1, 2003 $3.95

WHO AL QAEDA TARGETS
PAUL MARSHALL

Massachusetts vs. Marriage

How to save an institution
by Maggie Gallagher



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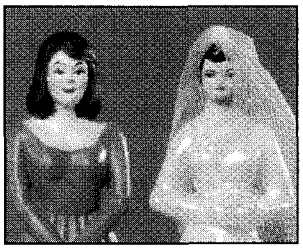

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THE WEEKLY STANDARD (ISSN 1083-3013) is published weekly (except the first week in January, the second week in July, the second week in August, and the second week in September) by News America Incorporated, 1211 Avenue of the Americas, New York, NY 10036. Periodicals postage paid at New York, NY, and additional mailing offices. Postmaster: Send address changes to THE WEEKLY STANDARD, P.O. Box 96127, Washington, DC 20077-7767. For subscription customer service in the United States, call 1-800-274-7293. For new subscription orders, please call 1-800-283-2014. Subscribers: Please send new subscription orders to THE WEEKLY STANDARD, P.O. Box 96153, Washington, DC 20090-6153; changes of address to THE WEEKLY STANDARD, P.O. Box 96127, Washington, DC 20077-7767. Please include your latest magazine mailing label. Allow 3 to 5 weeks for arrival of first copy and address changes. Yearly subscriptions, $78.00. Canadian/foreign orders require additional postage and must be paid in full prior to commencement of service. Canadian/foreign subscribers may call 1-850-682-7653 for subscription inquiries. Visa/MasterCard payment accepted. Cover price, $3.95. Back issues, $3.95 (includes postage and handling). Send manuscripts and letters to the editor to THE WEEKLY STANDARD, 1150 17th Street, N.W., Suite 505, Washington, DC 20036-4617. Unsolicited manuscripts must be accompanied by a stamped, self-addressed envelope. For a copy of THE WEEKLY STANDARD Privacy Policy, visit www.weeklystandard.com or write to Customer Service, THE WEEKLY STANDARD, 1150 17th St., NW, Suite 505, Washington, D.C. 20036. THE WEEKLY STANDARD Advertising Sales Office in Washington, DC, is 1-202-293-4900. Advertising Production: Call Nicholas H.B. Swezey 1-202-496-3355. Copyright 2003, News America Incorporated. All rights reserved. No material in THE WEEKLY STANDARD may be reprinted without permission of the copyright owner. THE WEEKLY STANDARD is a trademark of News America Incorporated.

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The Old News on Saddam and Osama

Stephen F. Hayes's article last week on the history of friendly contact between Saddam Hussein and Osama bin Laden ("Case Closed") provoked criticism from several quarters, including from the Pentagon itself—where the secret memo on Iraqi-al Qaeda links obtained by Hayes originated. You can read detailed responses by Hayes to these criticisms at our website, *weeklystandard.com*.

But it's worth pausing to consider the core complaint from the Pentagon, which was then echoed in other stories reacting to "Case Closed." This was the old Clintonian mantra that the article contained nothing new. According to the Pentagon's November 15 press release, "reports that the Defense Department recently confirmed new information with respect to contacts between al Qaeda and Iraq in a letter to the Senate Intelligence Committee are inaccurate."

In fact this complaint is a straw man. As Hayes accurately reported of the memo's contents: "Some of it is new information obtained in custodial interviews with high-level al Qaeda terrorists and Iraqi officials, and some of it is more than a decade old."

But in another sense, the Pentagon is correct that contacts between al Qaeda and Iraq are old news. That's why it's all the more baffling that the administration has been so quiescent in the face of the propaganda campaign insisting that the story of these two enemies' cooperation is a fabrication.

Does THE SCRAPBOOK exaggerate? You be the judge.

Dick Cheney was asked by Tim Russert on September 14 whether there was a connection between Saddam Hussein and the 9/11 attack. Cheney gave the only truthful and responsible answer: "We don't know." He then elaborated on what the government had learned of Iraq-al Qaeda ties in the two years since that attack—an account that tracks the more detailed information Hayes reported on last week: "We learned more and more that there was a relationship between Iraq and al Qaeda that stretched back through most of the decade of the '90s, that it involved training, for example, on BW [biological weapons] and CW [chemical weapons], that al Qaeda sent personnel to Baghdad to get trained on the systems that are involved. The Iraqis providing bomb-making expertise and advice to the al Qaeda organization."

From the Democratic reaction, you might think Cheney had said that the sun rises in the West: The *Boston Globe* quoted a senior foreign policy adviser to Howard Dean saying it is "totally inappropriate for the vice president to continue making these allegations." The *Globe* went on: "Former senator Max Cleland, who is a member of the national commission investigating the attacks, said yesterday that classified documents he has reviewed on the subject weaken, rather than strengthen, administration assertions that Hussein's regime may have been allied with al Qaeda. 'The vice president trying to justify some connection is ludicrous,' he said."

During a September 16 TV appearance, Senator Bob Graham, then a Democratic presidential candidate, asserted that there was "no evidence that there had been any collaboration between the terrorists and Saddam Hussein on or before September the 11th."

At an NYU speech in August sponsored by *Moveon.org*, former vice president Al Gore was even more categorical: "The evidence now shows clearly that Saddam did not want to work with Osama bin Laden at all, much less give him weapons of mass destruction."

Well, call it old evidence or call it new, the evidence clearly shows that Saddam *did* want to work with Osama bin Laden.

Oh, and lest we forget, there was this sly comment from French president Jacques Chirac in an October 16, 2002, interview with the Lebanese paper *L'Orient-Le Jour*: "To my knowledge, no proof has been found of a link between Iraq and al Qaeda, or in any case none has been made official." Well, Monsieur le président, consider yourself informed, unofficially of course.

THE SCRAPBOOK, for its part, can confirm that the oeuvre of George Orwell, although it contains no new information, continues to be a source of inspiration and enlightenment. We're thinking especially of his observation that "we have now sunk to a depth at which restatement of the obvious is the first duty of intelligent men." ♦

Flush with Success

Since Al Gore lost the 2000 presidential election, he's had many incarnations. He's been a college professor, a *Saturday Night Live* sketch comic, and an aspiring television mogul. He's been fat and thin, bushy-bearded and clean-shaven. He's been a puppet, a pirate, a pauper, a poet, a pawn, and a king. And a guest lecturer for *Moveon.org*. But we have to say that no feather has shone so brilliantly in his post-political cap as that of his latest post: Al Gore, returning to his green roots, has joined the

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board of directors of a waterless urinal company.

Falcon Waterfree Technologies, an environmental technology company, is hell-bent on making the traditional urinal obsolete, since each one of these instruments is responsible for wasting some 40,000 gallons of water per year. As the self-proclaimed "worldwide leader" in waterfree urinal technology, the company insists "global demand for waterfree urinals is taking off."

We tend to believe them. THE SCRAPBOOK knows countless men who, after an afternoon spent drinking too much coffee, stand there thinking, "This would be great, were it not for all the flushing."

Al Gore himself seems to think it's no laughing matter. A Falcon spokesman told the *Washington Times*'s John McCaslin, "Mr. Gore takes his role of advisory board member . . . very seriously." It is tempting, of course, to rain bad puns down on Gore, to suggest he is flushing his reputation. But we can't muster the enthusiasm. Instead, we'll leave you with the observation of one longtime Gore-watcher, who, when told of this new development, slapped his forehead and exclaimed: "No s*#%." ♦

Shooting Blanks

The Ninth Circuit has preserved its reputation as the most insanely liberal of the federal appeals courts. In a 2-1 decision last week, the court held that gun manufacturers are potentially liable for crimes committed by any nutjob who gets his hands on a gun. The plaintiffs argued that Glock and other manufacturers flood the market with more guns than there is legal demand for, and are thus knowingly supplying the illegal market as well. (As Ted Frank notes on the excellent website *www.overlawyered.com*, the two judges voting in the majority also voted to postpone the California recall election—the notorious decision overturned in short order by the full court.)

The complaint alleges that the defendants sold in a "high-risk, crime-facilitating manner . . . including [via] gun shows, 'kitchen table' dealers, pawn shops, multiple sales, straw purchases, faux 'collectors' and distributors, dealers and purchasers whose ATF crime-trace records or other information defendants knew or should have known identify them as high-risk." The case arose from the 1999 shooting spree by neo-Nazi Buford Furrow, who injured five people and killed one in his rampage at the North Valley Jewish Community Center in Granada Hills, California. (The Glock in the case, however, was originally sold to a police department.)

Congress is considering legislation to prevent such lawsuits, which twist traditional understandings of liability beyond recognition. The Lawful Commerce in Arms Act would bar suits based on criminal or unlawful acts by a third party. The bill has passed the House of Representatives, but is unlikely to get a vote in the Senate this year.

In the meantime, manufacturers like Glock will presumably want to be wary about the kind of police departments they sell their firearms to. ♦

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Casual

QUOTE-IDIAN

The other day I was signing a few books, after a talk I gave at a women's club in Chicago, when someone remarked on the weather, and a very nice woman cited Mark Twain as saying, "It's heaven for climate, it's hell for company." I hesitated, then remarked, "Forgive me, but Mark Twain wasn't the first to say that. J.M. Barrie was." One-upsmanship isn't really my style, and neither is correcting someone my notion of a good time.

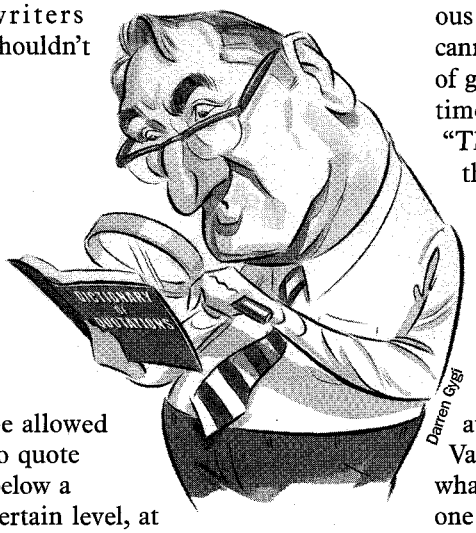
I do, though, have a stake in that particular quotation, for, having once heard it used by a Mark Twain impersonator, I had attributed it to Twain in a *New Yorker* piece I wrote some years ago on Ambrose Bierce. A well-mannered fact-checker at the magazine called to tell me that three different dictionaries of quotations had qualified attributions of the comment to Twain, but a fourth, Bergan Evans's *Dictionary of Quotations*, claimed it was often misattributed to Twain but really first appeared in a Barrie play.

How many other quotations are misattributed to Twain? Probably, my guess is, a great many. Oscar Wilde, Winston Churchill, Dorothy Parker also must pick up credit for things they never really said. Samuel Johnson, too, is among the most quoted of writers, but his utterances are so characteristic that no one is likely to attribute to him something said by, say, Yogi Berra.

That most quoted author of all, fellow name of Anonymous, once said that you are only truly famous when someone insane imagines he is you. But I wonder if having witty or penetrating quotations you never made attributed to you doesn't also qualify.

People quote other people for all sorts of reasons. At the low end, they do so to show that they are decently well read or modestly cultivated. "Brush up your Shakespeare," the Cole Porter song from *Kiss Me Kate* has it, "start quoting him now . . . And the women you will wow." Others use quotation to back up their arguments. How can I be wrong when a sterling dude like Cicero felt pretty much the same way? Some writers use quotations to close off further discussion: "As Hannah Arendt put it," "As Richard Rorty says," "As Harold Bloom remarked . . . "

When I was editing a magazine, the *American Scholar*, I felt that my writers shouldn't be allowed to quote below a certain level, at least not when they expected the material quoted to carry Q.E.D. authority. The three people mentioned at the end of my last paragraph, for example, would not qualify; each has said too many wrong or foolish things. My own sense is that, in prose, there ought to be a moratorium, in which one waits 50 years after an author's death before he ought to be considered quotable in an authoritative way.



Some writers appear to have written for quotation, and not alone those with an aphoristic style. Consider Alexis de Tocqueville, whom I have taken to calling "the inevitable Tocqueville," for if you write at any length on almost any subject on America you will find yourself, inevitably, quoting, usually to good effect, Tocqueville. I am about to launch out on a little book on Tocqueville, and already feel it is a great drawback that I shall not be able to quote Tocqueville on the subject of Tocqueville.

A fairly quotatious fellow myself, I write down interesting items from my reading, which I keep in small notebooks. I have more than 20 such notebooks. My entries run from the elegant to the penetrating to the historically odd: ". . . Pompey's eldest son Cnaeus, who had a short and cruel temper" is a recent entry I took from Anthony Everitt's biography of Cicero; Hobbes's phrase for laughter, "sudden glory," is another. These notebooks have become too numerous to serve as a filing system. Yet I cannot resist copying out items I find of genuine interest, including, sometimes, one writer quoting another: "The spirit, says Aristotle, ages like the body," wrote Montaigne, himself one of the great quoters.

I have a weakness for quoting Paul Valéry, the French thinker and poet, who said so many smart things usually seasoned with a nice tang of paradox. "Everything changes but the avant-garde" is a characteristic Valéryism, as is "The future isn't what it used to be." Sometimes people one generally doesn't care for say dazzling things, and so one quotes them with a touch of regret. "What are the three saddest words in the English language?" Gore Vidal asked, then answered, "Joyce Carol Oates." Whenever I quote that I generally follow it up with Henry James's remark that the two most beautiful words in the English language are "summer afternoon." An Arab proverb runs: "When your son becomes a man, make him your brother." Lovely, and in my case it turns out to have been perfectly and pleasingly true. But why couldn't it have been a Jewish proverb? Quoters, alas, cannot always be choosers.

JOSEPH EPSTEIN

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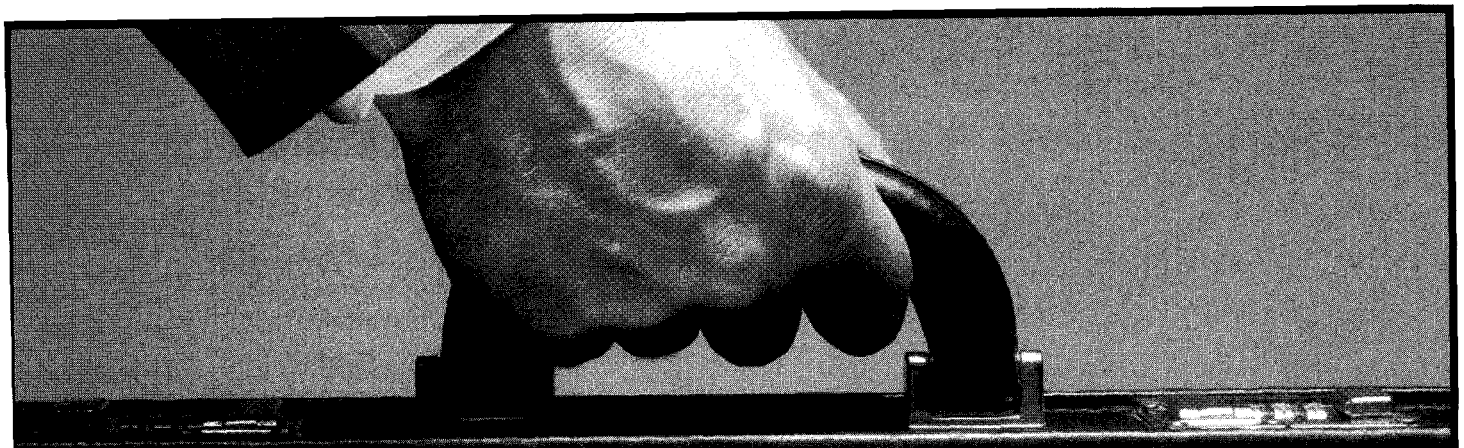

Think Tanks for Sale

The traditional "K Street" culture of campaign cash and legislative payoffs is still thriving. But what you think you know about lobbying may be out of date. The new state of the art for special interests is the market in ideas.

The upcoming issue of *The Washington Monthly* tells of this "deep lobbying" through the story of James Glassman. A prominent conservative pundit and fellow at the American Enterprise Institute, Glassman writes widely on business and politics, including a regular column for *The Washington Post*.

Glassman is the "host" of TechCentralStation.com, which is housed in the offices of a prominent corporate lobbying firm. Several top lobbyists own a piece of TCS as well.

Glassman describes TCS as a "virtual think tank" but it operates more like an old-fashioned PR shop. For example, after ExxonMobil joined as a sponsor, TCS published extensive attacks on the science behind global warming. And when the pharmaceutical lobby PhRMA signed up, a TCS columnist editorialized against the right of seniors to buy cheaper drugs in Canada.

This kind of operation is hardly unique. The Economic Strategy Institute (funding from UPS) opposes foreign competition in the express-mail market. The Alexis de Tocqueville Institute (money from Microsoft) says open source code for software is a threat to national security.

The best ideas money can buy

And a favorite of the Bush administration, the Competitive Enterprise Institute (big bucks from big tobacco), actually advises Americans to "light up, giving a filter-tipped finger, as it were, to a health-obsessed government."

Regardless of how outlandish their opinions, "experts" are increasingly doing the work of industry spokesmen. So the next time you see someone peddling a policy study, remember: A democracy is no better than the information available to its citizens.

Visit www.TomPaine.com for more, including analysis from PR Watch and Steve Clemons of the New America Foundation. And watch for the upcoming issue of The Washington Monthly.

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Raising Zell

Fred Barnes's review of Senator Zell Miller's new book ("Miller's Tale," Nov. 10) indicates that Barnes, Miller, or both have chosen to use interesting interpretations of Miller's political career in exploring the development of Miller's "conscience."

Yes, Miller opposed the Civil Rights Act of 1964. Barnes says "Miller was never a segregationist," and Miller says he "was a political weakling, but not a racist." Southern Democrats, however, the champions of segregation since the Civil War, began trading in their badges for Republican flags after 1964. Miller's statement seems an effort to separate himself from Trent Lott, who lost his Senate leadership post after saying he was sorry that Strom Thurmond lost his Dixiecrat presidential candidacy in 1948. Miller may indeed be neither "racist" nor "segregationist," labels for which there are no blood tests.

Miller's "conscience" has also now led him to abandon his pro-choice position on abortion, and become a "full-throated opponent of legalized abortion." The Republican party in Georgia is now under the direction of Ralph Reed, the former top-level associate of Rev. Pat Robertson's Christian Coalition. "Political survival" is as useful an explanation as "conscience" for Miller's switcheroo.

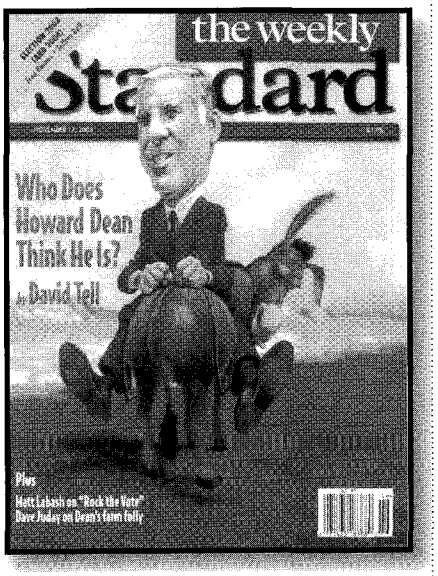
Miller traces the 2002 defeat of Senator Max Cleland in Georgia (a Vietnam triple amputee) solely to Cleland's votes against the Bush homeland security plan, "simply because federal workers' unions didn't like it." This overlooks the fact that Cleland was an obvious target for the antiabortion forces that are so powerful in Georgia. Meanwhile, Miller understates his record as one who wants to turn all government employment into "at will" jobs, with employees subject to firing by their political bosses for any reason at any time, with no appeals allowed. Georgia is a leader in this trend, along with Texas and Florida, as we move gradually toward a 19th-century spoils system, at one time a specialty of Northern Democrats.

Frederick Thayer
University of Pittsburgh
Pittsburgh, PA

Red Rage

David Evanier has written some not bad fiction, and so I guess it was appropriate to assign him to review Haynes and Klehr's *In Denial* ("Invincible Ignorance," Nov. 17). However, The Weekly Standard's use of photos of real people (yours truly among them) to accompany Evanier's essay may mislead readers into thinking that the beliefs attributed to them in the book and its review have some basis in reality.

To take only myself, I was interested to discover that "There are still a few holdouts against the existence of Soviet espionage, including Victor Navasky . . ." Never mind that I have



written in the *Nation* that "there undoubtedly were bona fide espionage agents on both sides" (July 18, 2001). Never mind that the *Nation*, which I serve as publisher and editorial director, has come under attack from some of our readers for publishing, a month after the first Venona release, a piece by Walter Schneir and Miriam Schneir persuasively documenting why they now believe Julius Rosenberg was head of a spy ring (which Ethel Rosenberg may have known about but was not a member of) that gathered and passed defense information (August 14/August 21, 1995). The Schneirs, by the way, continue to believe, as do I, that the Rosenbergs were victims of political hysteria and government impropriety and should never have been executed. Never mind that over the years, I have written and lectured about such practitioners of Soviet espionage as Klaus Fuchs, Colonel Rudolph Abel, Burgess, McLean, Philby, Ted Hall, Michael Straight (who never really practiced the espionage he was recruited to carry out), and others.

Victor Navasky
New York, NY

Meat Market

If Dave Juday's point in "Where's the Beef From?" is that Howard Dean doesn't know what he's talking about when it comes to agriculture, I agree (Nov. 17). But Juday ignores the fact that small farmers are often exploited by the giants of corporate agriculture. Of course corporations want quality and uniformity in their product, but what gives them that right to impose those demands on the small farmer? The Constitution? I don't think so. The corporation, the farmer, and the consumer should have the same opportunities to buy and sell their goods and services in the marketplace. By any fair measure the agriculture industry does not work that way and has not for some time.

Tad Allen Williams
Manassas, VA

• • •

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An Administration of One

When George W. Bush first entered the White House, the conventional wisdom was that his inexperience and lack of vision in foreign policy would be compensated for by his wise and experienced cabinet. This may or may not have been a reasonable view at the time. Right now, however, it is clear that the most visionary and, yes, the wisest and most capable foreign policy-maker in the Bush administration is the president himself. Let's hope the team around him proves willing and capable of fulfilling his clear and historic grand strategy.

This past week has been an extraordinary one for the president. His visit to Great Britain, portrayed by the press beforehand as an impending disaster, was instead a resounding success. The spectacle of anti-Bush and anti-American protesters had a predictable effect on a sensible British public. Polls in Britain show rising support for the war in Iraq and a growing appreciation for the role played by the United States in the world. Bush's speech in London won well-deserved praise even from European critics—more so, actually, than from many of his American critics, who have long since abandoned the pretense of objectivity.

Bush struck exactly the right balance in reaching his hand across the Atlantic and seeking cooperation in the war on terrorism, but without pulling back from his own determination to wage that war forcefully. He began to dispel the label of unilateralism that has been unfairly pinned on him, while still asking Europeans to wake up to the realities of a dangerous world they have been trying so hard to ignore. Bush might be well advised to give more such speeches in Europe. (We have stopped expecting his secretary of state actually to go to European capitals to make the case for the president's policies.)

In his London speech, the president continued to advance what has come to be the centerpiece of his global grand strategy—the promotion of liberal democracy abroad, and especially in the Middle East, where freedom has been most wanting and where the West's record has been most dismal. This was the third speech in less than nine months in which the president made the promotion of democracy his central theme (the first being his speech at the American Enterprise Institute back in February before the Iraq war began, the second his speech to the National Endowment for Democracy earlier this fall). There can no longer be any doubt that whatever Republican "realist" inclinations the president may have inherited from his father and his father's advisers when he took office, he has now abandoned that failed and narrow view and raised the torch previously held high by Ronald Reagan—and before that by John F. Kennedy and Harry Truman.

In this respect, Bush has broken from the mainstream of his party and become a neoconservative in the true meaning of the term. For if there is a single principle that today divides neoconservatism from traditional American conservatism, it is the conviction that the promotion of liberal democracy abroad is both a moral imperative and a profound national interest. This is a view of America's role in the world that has found little favor in the Republican party since the days of Theodore Roosevelt. Reagan was a modern exception—the product, no doubt, of his own roots as a Truman Democrat—but this aspect of Reaganism was largely abandoned by Republicans after 1989. And so we are not surprised to see traditional Republican conservatives, of whom there is no more esteemed intellectual spokesman than George Will, now denouncing the supposed folly of such ambitious ventures. Nor are we surprised that in Bush's own cabinet, neither his secretary of state nor his secretary of defense shares the president's commitment to liberal democracy, either in Iraq or in the Middle East more generally. Indeed, the only thing that surprises us, a little, is the failure of American liberals—and European liberals—to embrace a cause that ought to be close to their hearts.

Liberals and conservatives alike these days seem willing to consign the Arab peoples to more decades of tyranny. "The West," argues Fareed Zakaria, "must recognize that it does not seek democracy in the Middle East—at least not yet." President Bush rejects this counsel. "In the West," Bush noted in London, "there's been a certain skepticism about the capacity or even the desire of Middle Eastern peoples for self-government. . . . It is not realism

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to suppose that one-fifth of humanity is unsuited to liberty. It is pessimism and condescension, and we should have none of it."

What has also become clear this past week is that Bush is determined to promote democracy in Iraq—and right now. This is a significant step forward. Up until recently, senior Bush officials have tended to avoid using the word "democracy" to describe the goals of American policy. In the Pentagon and elsewhere it has been thought that this sets the bar too high and implies a lengthy American commitment to Iraq, a commitment of money, energy, and troops. The most urgent task, as Donald Rumsfeld and General John Abizaid have been inclined to see it, has been to bring the levels of U.S. forces in Iraq down and turn over the task of security to the Iraqis as quickly as possible. Others in the administration have adopted the familiar argument that the Iraqi people are not yet ready for democracy and have tried to push any real elections as far into the future as possible.

President Bush this week slammed the door on this kind of thinking. First, he set the bar for success high: democracy. The new plan for a handover of sovereignty to the Iraqis calls for regional caucuses to elect a transitional legislature by next May, with general elections planned for the end of 2005. We would prefer to see the elections moved up, but even under the current schedule Iraqis will have a chance to begin participating in democratic politics almost immediately. That is a giant step toward the goal and the commitment that Bush articulated this past week: The United States "will meet our responsibilities in Afghanistan and Iraq by finishing the work of democracy we have begun."

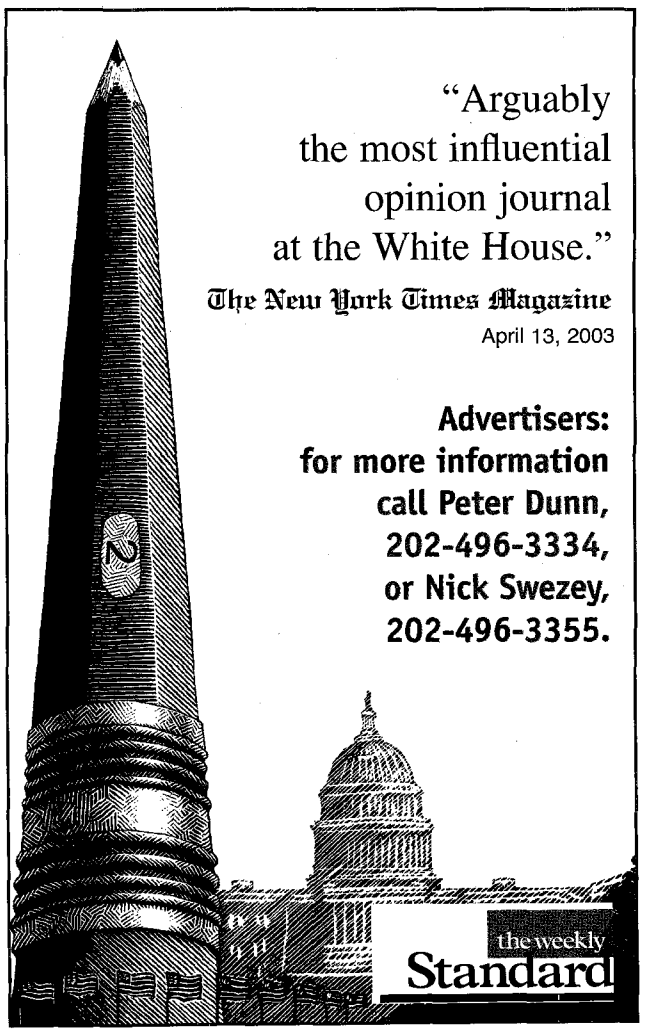
So much for exit strategies. Bush has made it clear that the only exit strategy from Iraq is a victory strategy, with victory defined as "democracy." "We did not charge hundreds of miles into the heart of Iraq and pay a bitter cost of casualties and liberate 25 million people only to retreat before a band of thugs and assassins. We will help the Iraqi people establish a peaceful and democratic country in the heart of the Middle East." That commitment may turn out to be the most important of Bush's presidency, perhaps the most important of the post-Cold War era.

The second significant point Bush made in London was about troop levels in Iraq. In response to a question about beginning to bring home troops from Iraq next year, the president could not have been clearer. The United States will provide the troops necessary in Iraq. "We could have less troops in Iraq, we could have the same number of troops in Iraq, we could have more troops in Iraq, whatever is necessary to secure Iraq." Unfortunately, Bush's senior advisers treated his remark as if it were a gaffe and immediately began backgrounding reporters that there was no chance of a troop increase next year. That was an appalling error, signifying just how little the president's own advisers understand what's at stake in Iraq.

The president, we are happy to say, does understand. "The failure of democracy in Iraq," he said this week, "would throw its people back into misery and turn that country over to terrorists who wish to destroy us." Failure in Iraq is unacceptable. Al Qaeda and international terrorists "view the rise of democracy in Iraq as a powerful threat to their ambitions. In this, they are correct. They believe their acts of terror against our coalition, against international aid workers and against innocent Iraqis will make us recoil and retreat. In this, they are mistaken." Progress toward democracy is imperative. If that means more American troops are needed, then the administration should not—and we are now confident will not—flinch from putting in more troops, even in an election year.

The president made great progress this week explaining his vision and strategy to the world. He has placed himself at the level of Reagan and Truman, both of whom were also treated with derision by their opponents. Bush's great task now will be to explain his strategy to his own cabinet and commanders and insist that they begin implementing it.

—Robert Kagan and William Kristol



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Misunderstanding al Qaeda

What you weren't told about their targets in Saudi Arabia. BY PAUL MARSHALL

AMERICAN REACTIONS to the recent bombing of a foreign workers' compound in Riyadh reveal multiple misreadings of the Arab world and—more dangerously—of both al Qaeda and the Saudis.

The media seem to equate Arab with Muslim and, along with some in the administration, think that al Qaeda's war is against Americans and Westerners per se, rather than against all "infidels," a group al Qaeda defines idiosyncratically and expansively as anyone who is not a strictly observant Muslim. Both mistakes are compounded by reliance on the Saudis' distorted account of the attack.

The November 8 bombing took place in a Lebanese Christian neighborhood of Riyadh, and of the seven publicly identified Lebanese victims, six were Christian. Lebanon's newspapers are replete with photographs of Maronite Catholic and Greek Orthodox victims. *Daleel al Mojahid*, an al Qaeda-linked webpage, praised the killing of "non-Muslims." The Middle East Media Research Institute quotes Abu Salma al Hijazi, reputed to be an al Qaeda commander, as saying that Saudi characterizations of the victims as Muslims were "merely media deceit."

If so, the media fell for it. Reuters described the bombing as against "fellow Muslims," the *Los Angeles Times* as "against Muslims," the *Washington Times* called the victims "innocent Muslims," the *San Francisco Chronicle* "Muslim civilians who happened to be in the wrong place," and the *New York Times* "expatriates from other Muslim countries."

Others used vaguer terms. The BBC said the "bombing killed Arabs and Muslims," as did the Associated Press, the *New York Times*, and the *Los Angeles Times*. In the *Wall Street Journal*, David Pryce-Jones pronounced the dead "exclusively Arabs and Muslims." While perhaps strictly correct, this circumlocution hides the fact that the victims included Arab non-Muslims and Muslim non-Arabs.

The effect of this mischaracterization is to link Arab to Muslim, ignoring the large numbers of Christian Arabs from Egypt, Lebanon, and elsewhere who work in Saudi Arabia (and Israel) and have long been targeted by Islamic extremists, including by the Saudi government. (At the time of the bombing, two Egyptian Christians, Sabry Gayed and Guirguis Eskander, were in a Riyadh prison for holding a worship service, even though Prince Sultan had ordered them released.)

Similarly, media coverage of the October 4 suicide attack on Maxim, a restaurant in Haifa, noted that one co-owner was Jewish, but described the other simply as "Arab." Commentators wondered why Palestinian terrorists were killing "Arabs." But the second co-owner was actually a Lebanese Catholic, as were many of those killed. The term "Arab," while playing into America's obsession with ethnicity, hides the religious dimension that is central to the worldview of al Qaeda, Hamas, and Islamic Jihad.

Similar puzzlement over attacks in Turkey, Pakistan, and Indonesia, as well as over the targeting of the U.N. and Red Cross in Iraq, reflects a focus on nationality and ethnicity that misses the terrorists' own obsession with "infidels" and once again ties the attacks exclusively to anti-Americanism and anti-Westernism.

The *New York Times* associated the bombed compound in Riyadh with "Western lifestyles and foreign influence." The BBC speculated that the attackers "thought that among the residents were Americans." Pryce-Jones wondered whether, finally, "somebody is evidently even more eager to destabilize Saudi Arabia than to kill Americans or Westerners."

However, every day in every way, al Qaeda reiterates that its target is "infidels," wherever they live, including Jews, Christians, Buddhists, Hindus, and the vast majority of the world's Muslims, who reject the extremists' vision of a restored caliphate under a reactionary version of Islamic law. Bin Laden's October tape, aimed at Muslims, described his enemy as "the Romans . . . gathered under the banner of the cross," but it also denounced Muslim "infidels and heretics." (At the same time, of course, al Qaeda is happy to form tactical alliances with others who do not share its vision, whether Shiites in Iran or secularists like Saddam Hussein.)

For years, one of al Qaeda's major components, Egypt's Islamic Jihad, led by bin Laden deputy Zawahiri, massacred Christians and moderate Muslims in Egypt. The Armed Islamic Group in Algeria, which has openly declared itself a bin Laden ally, has killed over 100,000 Muslims, often by disemboweling them. The Sudanese National Islamic Front, formerly known as the Muslim Brotherhood, has killed hundreds of thousands of Muslims in the Nuba mountains and elsewhere, as well as nearly 2 million non-Muslims.

In the Riyadh bombing, al Qaeda once again targeted "infidels." Al Hijazi claimed that the compound had contained Americans and "Lebanese Christians who had tortured Muslims . . . during the civil war." The bombing killed Christians, and also Muslims, who—because they lived in a gated compound with swim-

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ming pools and alcohol, mixed with infidels, and allowed women to go unveiled—were seen by the terrorists as infidels and apostates therefore deserving to die.

Why have the *New York Times*, the *Wall Street Journal*, the *Washington Times*, the *Los Angeles Times*, the *San Francisco Chronicle*, the BBC, the Associated Press, Reuters, and Arab News, among many others, published false or misleading information on this important subject? The answer lies in their sources. Saudi Arabia does not allow freedom for investigative reporting. It restricted journalists' access to the bombing site, and quickly demolished the area with bulldozers, before any forensic examination or in-depth investigation could take place. Consequently, the controlled Saudi media, and the government itself, are the source of most information.

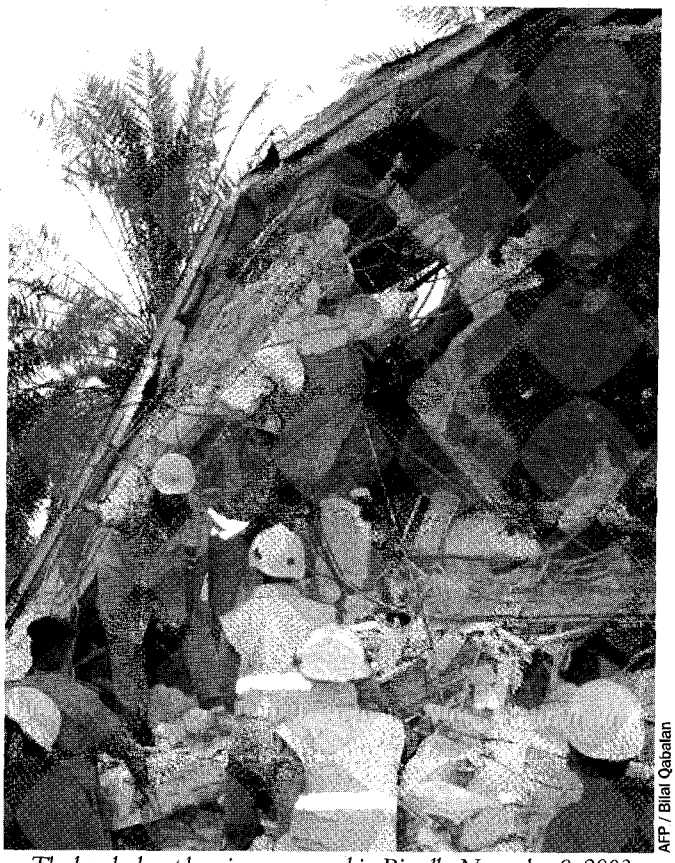
The Saudi authorities' own statements have been studiously vague about the target of the bombing. While avoiding outright falsehood, their careful phrases hide the true nature of the attack and instead try to portray themselves as the real victims. Saleh bin Abdul-Aziz, the Islamic affairs minister, described the attack as "flagrant aggression . . . against Islam, the people of Islam, in the land of Islam."

Ubiquitous Saudi spokesman Adel al-Jubeir, when asked in three different CNN interviews about the targets of the bombing, each time switched the topic to a bomb factory uncovered in Mecca, complete with booby-trapped Korans, saying, "These Korans were intended for Muslims." He described an enemy who attacks "everyone," "humanity," "regardless of the target," and added, "They're killing anyone they can get their hands on."

Since state-supported Saudi imams preach hatred of infidels, especially Christians and Jews, and the kingdom spends billions to export these ideas, the regime has good reason to hide the fact that someone acted on their teaching.

Despite this dissembling, there is little possibility that the Saudi government did not know what went on in the compound and who the targets were. Three months before the bombing, the Muttawa religious police, also known as the Committee for the Propagation of Virtue and Prevention of Vice, had raided the compound, and scuffled with its security guards, because they had heard of an "un-Islamic" party in progress. Once inside, not for the first time, they knew exactly which buildings they wanted to check. The head of the Muttawa is a Saudi cabinet minister.

The fact that the Saudi authorities did not reveal that this was largely a Lebanese Christian area, that they rapidly demolished the remains and stayed silent while the media misreported the identity of the victims, suggests a deliberate attempt to mask what is going on in the kingdom. (Meanwhile, a debate is taking place in the Saudi press over whether a woman named Saban Abu Lisam, who was herself injured in the blast but nevertheless drove seven other injured victims to the hospital, should be praised for her courage or punished for violating the ban on women driving.)



AFP / Bilal Qabalan

The bombed-out housing compound in Riyadh, November 9, 2003

In the Riyadh bombing, al Qaeda did what it has always done, and, as usual, it explained why its targets were chosen. Nevertheless, much of the U.S. administration seems to share the media's bafflement. U.S. deputy secretary of state Richard Armitage, in Saudi Arabia at the time of the blast, opined that the bombers had attacked "the government and people of Saudi Arabia." The *Los Angeles Times* describes "senior administration officials," puzzled at this latest choice of targets, as "grasping, saying this doesn't fit the box we expected."

If this is true, the administration, like the media, needs a new box. It would be a good place to dump Saudi prevarications, and also to store the al Qaeda videos, tapes, books, and fatwas that for the last ten years have been laying out the organization's goals in explicit detail. To repeat: Al Qaeda and its allies aim to kill or subdue all "infidels," Muslim or non-Muslim, who stand in the way of their goal of restoring a worldwide caliphate governed, Taliban-style, by the strictest, narrowest interpretation of Islamic law.

Until this fact is finally assimilated, we will continue to have a military that fights superbly against an enemy whose strategic aims we refuse to understand. ♦

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The Governing Party

Conservatives discover the downside of being the majority. By Fred Barnes

Congressional Republicans were lining up votes last week for a compromise bill creating a prescription drug benefit for America's 40 million elderly. At the same time, Senate Democratic leader Tom Daschle was waving a placard with a picture of a lemon, the letters "Rx," and a slash across both. He chanted, "No more lemons!" In London, President Bush was delivering a speech in defense of the use of military force and solidifying his bond with British prime minister Tony Blair. In New Hampshire, meanwhile, Democratic presidential candidate John Kerry was airing a TV ad accusing Bush of having "deserted" American soldiers.

The contrast between oh-so-serious Republicans and unhinged Democrats is a telling one. Republicans—many of them anyway, and especially Newt Gingrich—believe they're acting, at long last, like a governing majority. Once a raucous band of outsiders, they've grown up since taking control of the White House and Congress and now expect to dominate Washington for years to come. Democrats, on the other hand, are frenzied, furious, and fulminating, just like Republicans of fairly recent vintage. The new Democratic trademark is the wild charge. This role reversal delights Republicans, but there's a downside.

What does it mean to be a governing majority? It means you're responsible—cautious, really—and that you tone down your rhetoric. I asked Senate majority leader Bill Frist last week when he plans to schedule a vote on a ban on gay marriage. He has no plans at the moment, Frist said. Rather, it depends on whether the Massachusetts Supreme Court ruling in favor of gay marriage leads to "continued destruction of the traditional definition" of marriage. Bush, like Frist an opponent of gay marriage, was equally restrained in a White House statement that deplored the Massachusetts decision. Instead of exploiting same-sex marriage as a wedge issue, Frist and Bush were, well, responsible.

When Gingrich addressed the House Republicans last week, he lauded the Medicare bill as the work of a governing majority.

A governing majority stresses legislative achievement. It doesn't merely obstruct. That task is now left to Democrats, notably Daschle. A party with a governing mentality must be prepared to take ownership of even imperfect but popular legislation. Why? Because that produces results in response to a public desire. If there are problems with a bill, the governing majority is in a position to deal with those later. This, of course, is the rationale for backing the Medicare legislation with an expensive new entitlement while offering only minimal reform and few cost-saving measures.

What's more, a governing majority seeks fresh allies to improve the likelihood of enacting legislation, help broaden the party's base, and assure the perpetuation of its majority. Such was the reason for forging an alliance with AARP on Medicare and a drug benefit. Gingrich actually began wooing AARP when he successfully slowed the growth of Medicare in the mid-1990s, and his successor as House speaker, Dennis Hastert, followed up by forging a close relationship with the 35-million-member organization's leader, Bill Novelli, and chief lobbyist, John Rother. AARP's opposition would surely have doomed the Medicare bill. At the very least, its non-hostility was necessary. AARP's endorsement was a bonus credited to Hastert. Democrats? They sounded the same sour message that many Republicans did a decade ago: AARP sold out to further its own financial interests, such as selling insurance. This was the complaint of a non-governing minority.

When Gingrich addressed the House Republican caucus last week, he lauded the Medicare bill as the work of a governing majority with a long-term view of politics and policy. He got a standing ovation and prompted House members to chant, "Vote, vote, vote." The key to being a governing majority, he said, is "you take half a loaf and go back to the bakery in the morning." If Republicans deliver a drug benefit, "who do you think AARP is going to sit down with in January" to discuss further modernization and reform of Medicare? Not Daschle. And the political benefits of the issue are wonderful, too. By opposing the bill, House Democratic leader Nancy Pelosi "is doing to Democrats what [Democratic leaders] Bonior and Gephardt did in 1994," when Republicans won 52 House seats, Gingrich said.

We'll see about that. In the meantime, behaving as a governing majority has a cost. M. Stanton Evans, the

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conservative writer, used to say that our people—conservatives—cease being our people when they get in a position of power. There's an element of that here, particularly in Republicans' eagerness to compromise. You don't have to be a libertarian to believe that inventing a prescription drug entitlement clashes with the idea of limited government. The assumption by Republicans that they'll get stronger reforms, even significant privatization, of Medicare later by working with their new best friend, AARP, is dubious. AARP is a staunch defender of traditional government-run Medicare. With a drug benefit in hand, AARP may balk at further reform.

The biggest worry about a Republican governing majority is that it won't act as a conservative majority. Gingrich says the goal is to be a "Reaganite governing majority." But on Medicare, the Reaganite part was small. The promise of free-market competition under Medicare was delayed until 2010 and then limited to a trial run in six cities over six years. A lot can happen before then, including the election of a Democratic president (in 2008) bent on eliminating any tinge of privatization. If the drug benefit bill is the model of success by a governing majority, the passage of almost any sort of legislation is fine so long as conservatives get a few concessions.

The real test of the Republican majority will come next year and in 2005. White House officials insist the president will campaign for reelection on Social Security reform. Democrats will answer that he wants to privatize the entire Social Security system and jeopardize benefits. Bush didn't buckle on this issue in 2000, but he didn't win a majority of the popular vote either. Assuming Republicans retain control of the White House and Congress, will they enact the one Social Security reform that matters, allowing workers to use some of their payroll tax for private investments? If not, a governing majority is a conceit without conservative content. ♦

Something for Everyone

A grotesquely irresponsible energy bill nears completion. BY IRWIN M. STELZER

IF PORK WERE A FUEL that could produce electricity and power SUVs, America would now be independent of imported oil. Unfortunately, the pork contained in the first new energy bill in over a decade has more to do with a desire to please Iowa corn farmers and assorted auto and energy companies than with the urgent need to reduce our reliance on oil from the world's most unstable region.

For once, Senate minority leader Tom Daschle has it right when he complains that the bill "does almost nothing to increase energy security." That, of course, hasn't stopped him from going along with legislation that Senator John McCain aptly calls "the no lobbyist left behind" bill. And Michigan congressman John Dingell, a long-serving Democrat who has been through more energy policy battles than any other member of Congress, was even less polite. Picking up this 1,100-page legislative tome that it took Congress three years to concoct, Dingell announced, is "like lifting the lid of a garbage can and smelling the strong smell of special interests."

Of course, Republicans are not insensitive to the fact that Democrats who oppose the energy bill will be taking the caviar out of the mouths of Iowa farmers. So they are watching with more than a little amusement as the key contenders in the upcoming Iowa caucuses explain their opposition, and as they confront what will be represented as still another legislative victory for the president, even though its cost is four times that of the legislation originally proposed by the White House.

After a good deal of agonizing, and some pressure from Northeastern senators, Daschle decided he could live with the bill. With one eye, or perhaps both eyes, on the corn farmers in his home state of South Dakota, he professed to see its subsidies for renewable energy sources and its new appliance-efficiency standards as offsetting "to a certain extent the many liabilities in the bill."

Other unhappy senators, loath to deprive the myriad beneficiaries of their slabs of pork, hunted for other virtues in the bill. It would repeal the Public Utility Holding Company Act, which prevents industrial companies from acquiring electric companies, and constrains some utility mergers. That repeal just might open up new sources of capital to the industry, although why shareholders of non-utilities should rush in with capital when shareholders of the utilities think it unwise to commit their capital to the business is unclear to this economist.

The bill also just might do something to shore up the reliability of the national electric grid. It increases the power of the Federal Energy Regulatory Commission to override the states in some instances in which state commissions are delaying the siting of transmission facilities needed to relieve congestion—a good idea, unless you believe that governments closest to the people should decide in whose backyard a transmission tower can be built. Still, not a costly provi-

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sion, and one that might do some good, although it can do nothing to eliminate the human error and equipment failure that were largely responsible for the most recent blackout.

Then we come to the real money. The tax incentives contained in the bill will cost $25.7 billion over 10 years, according to the Congressional Budget Office, plus another $5.4 billion in direct spending—a total price tag several multiples of what Bush had in mind. But since the president has dismissed the already burgeoning federal deficit as "just numbers," money is no object to a White House eager to notch victories on its legislative revolver in advance of the election that is now less than a year away.

Republican farm state senators and price-fixer Archer Daniels Midland are not the only ones delighted with a bill that unashamedly purchases the votes of key senators. Like other farm state senators, Byron Dorgan, the North Dakota Democrat who chairs the Senate Democratic Policy Committee, was wooed with provisions that mandate a doubling in the use of ethanol by 2012. Never mind that some environmentalists claim this corn-based gasoline additive does more to damage the environment than to benefit it. And the $1.5 billion in loan guarantees for a power plant to use North Dakota's very dirty coal (lignite) is sufficient reason for Dorgan to use his not inconsiderable influence to press his Democratic colleagues to go along with the bill. He won't have to twist the arm of Montana Democrat Max Baucus, who finds the new subsidies to increase the use of diesel fuel made from the soybeans grown in his state simply irresistible. Or of John Breaux and Mary Landrieu, the Louisiana Democrats whose opposition to the bill was eroded by the $1.1 billion it contains for restoration of their state's coastline.

The list of beneficiaries doesn't stop there. There are incentives to build a trans-Alaska natural gas pipeline; subsidies to cover the insurance costs associated with the production of nuclear power; tax breaks to encourage a bit more domestic production of natural gas and oil; handouts to the automobile companies to spare them the need to devote more of their own money to research into energy-efficient vehicles; $100 million per year in production tax credits for new nuclear plants; $6.2 million to promote the use of bicycles; $1 billion for a nuclear reactor in Idaho to produce hydrogen, and so much more that one is put in mind of the Stephen Sondheim lyric: "Something for everyone, a comedy tonight."

Black Star / Bobby Abrahamson

The blackout in New York City, August 14, 2003

Except that it isn't really very funny. The president and Congress have missed a golden opportunity to do something about our large and increasing dependence on imported oil. Saudi Arabia, our second largest supplier after Canada, is teetering on the brink of chaos; Venezuela, our fourth largest supplier, is in the hands of a Castro sound-alike; Nigeria's production, our fifth most important source of imports, is periodically interrupted; Iraq, if and when it gets back into full production, has promised to rejoin the OPEC cartel that provides over 40 percent of our imports and that is now keeping prices above the growth-retarding $30 per barrel level; Iran's mullahs aren't eager to make it easy for us to buy oil from their large reserves should we ever want to do so; Libya isn't exactly likely to prove a friend in need; Russia is still a minor supplier, with an oil sector that has been destabilized by Vladimir Putin's jailing of one of his nation's "oiligarchs." And China is now a major competitor for any new sources of oil that might become available.

As a result, the American economy remains at risk of oil supply interruptions and price spikes that can stifle economic growth. Ask this: Should a radical terrorist group seek to depose the House of Saud, would we be in any position to stand idly by, or would we once again face the necessity of sending troops to the Middle East, in this case to secure the Saudi oil fields? We would, of course, do the latter. Understandably. But what is less understandable is our politicians' failure to initiate the programs that will in the long run reduce—not end, merely reduce—our dependence on foreign oil.

Rather than confront this problem by imposing a tax on imported oil, Congress and the president have responded by breeding an expensive pre-Thanksgiving turkey that will do nothing to satisfy the nation's appetite for imported oil. And the bill may be even worse by the time it passes. A threatened filibuster on Friday, November 21, as this magazine went to press, temporarily delayed the measure. But the Republican leadership in the Senate seemed confident that it would gather (read: purchase) the required votes. "There are lots of offers being made," said Maria Cantwell, Washington Democrat.

But it is not the expensive and useless provisions that the bill contains that should most trouble us. The major liability of this bill is not what it contains, but what it doesn't. It leaves our energy policy stuck where it has been ever since Presidents Nixon, Ford, Carter, and their successors talked the talk but failed to walk the walk towards a sensible response to our dependence on imports. We continue to rely on aircraft carriers and troops to assure adequate supplies of oil to fuel our cars and heat our homes. No photo op of a smiling president, pen in hand, surrounded by the grinning authors of this senseless legislation, can conceal that shameful fact. ♦

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Picking on Pickering

Democratic fundraisers trash a judge's reputation.

BY KATHERINE MANGU-WARD

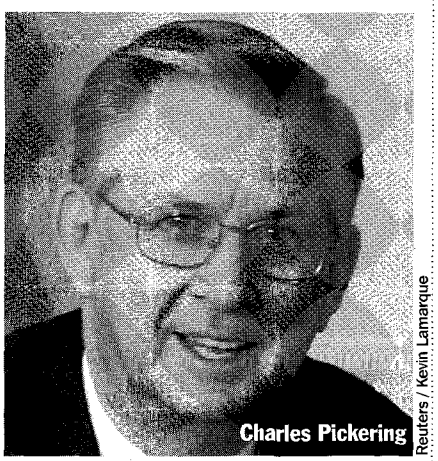
MIGUEL ESTRADA, Janice Rogers Brown, Patricia Owen, and Carolyn Kuhl had their turn in the spotlight two weeks ago, at an all-night Senate debate over confirmation of judicial nominees. But a recent Democratic fundraising memo reveals that Charles Pickering—the first Bush judicial nominee to be filibustered, for his "racist and reactionary" tendencies—maintains a firm hold on the imagination of Democratic senators. And donors.

Nominated to the Fifth Circuit in May 2001 (reportedly as a favor to Trent Lott, back when he could command favors), Pickering gets under the skin of Senate Democrats. He was voted down by a Democrat-dominated Senate Judiciary Committee, but renominated by Bush after the balance of power changed. The renomination, even Bush will admit, was "unprecedented." And it provoked a strong reaction.

"What Mr. Bush did was the political equivalent of giving black America his middle finger," said NPR radio personality Tavis Smiley. "He did that because he thinks he can get away with it."

But so far Bush hasn't "gotten away with it." Pickering made it out of committee this time on a 10-9 party-line vote. But in early November, Democrats blocked a second attempt to end debate on Pickering's nomination, so he remains in filibuster limbo.

If the Senate Democrats believe what they are telling their donors, it's no surprise that they want to stop Pickering. But when the *Village Voice* is running articles debunking those charges, the notoriously touchy Jim Jeffords is voting with Republicans, and the *New York Times* is running reporting pieces on widespread support for Pickering from the black community in Mississippi, it's time for the Democrats to reexamine their own allegations.



Charles Pickering

Reuters / Kevin Lamarque

The memo, a fundraising email from New Jersey senator Jon Corzine to Democratic Senatorial Campaign Committee donors, rehearses three charges under the heading: "Why must the Democrats continue their fight against Charles Pickering?"

(1) "While in law school, Mr. Pickering wrote an article suggesting ways the state of Mississippi could better enforce its ban on inter-racial marriage."

Pickering wrote the article in question in 1959 as a required academic exercise at a time when more than 20 states had laws against miscegenation. Nowhere in the article does Pickering endorse such laws.

The Senate had this article in hand when it unanimously confirmed him to the federal bench nearly 13 years ago. At the time, Pickering testified that "marriage between people of different races is a matter of personal choice. It is not appropriate for a state to make that decision, and it is my belief that miscegenation statutes are unconstitutional." The Senate took him at his word in 1990, but Democrats have since become skeptical, for reasons that are likely more political than moral.

(2) "As a state senator in the 1970's, Mr. Pickering worked to repeal important provisions of the Voter [sic] Rights Act."

In 1976 and 1979, Pickering cosponsored legislation asking Congress to allow "open primaries." The legislation opposed an amendment to the Voting Rights Act. The amendment permitted gerrymandering to give racial and ethnic minorities a majority in a district, while prohibiting gerrymandering to dilute the voting strength of a minority—Pickering called it "affirmative segregation."

Minority-majority districts are an issue about which reasonable people disagree, and Pickering's record suggests that his opposition does not spring from racism. None of Pickering's decisions on a voting rights or employment discrimination case has been reversed by a higher court.

The chairman of the Mississippi legislative black caucus, Phillip West, was quoted in the *Hill* on October 1: "Pickering's record of working with both races and working for racial reconciliation in past and present years is beyond what many whites . . . in positions of leadership have done in our state." West is joined in his endorsement of Pickering by the past 18 presidents of the Mississippi State Bar, all the major newspapers in Mississippi, and all Democrats elected to statewide office in Mississippi.

(3) "In 1994, he went out of his way to seek a more lenient sentence for a convicted cross-burner."

This charge has drawn the most attention, and if the implication were

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true, the attention would be justified.

Senator Lindsey Graham agreed that "any American would be offended by the idea that the president would put a judge on the bench who goes out of his way to give cross burners a break," but the fact is, said Graham, Pickering "lectured [the defendant] on cross-burning in a way that every American should be proud of."

The facts of the case are straightforward. Three men were arrested for burning a cross. Two plea-bargained their way out of jail time, including the ringleader. The third pled not guilty, was convicted, and a sentence of seven years was recommended. Pickering found the disparity in sentences unfair and, after appealing to the Clinton Justice Department for a ruling on relevant mandatory sentencing guidelines, reduced the convicted man's sentence to 27 months.

Pickering told the defendant that what he'd done was "heinous," "dastardly," and "deplorable," and said, "The type of conduct that you exhibited cannot and will not be tolerated."

New York senator Charles Schumer finds this mystifying. "Why anyone would go the whole nine yards," he has said, "and then some, to get a lighter sentence for a convicted cross burner is beyond me." But Pickering was not alone in his assessment of the case. One of the prosecutors wrote to the judge that he "personally agreed" that the original sentence was "draconian." In reducing that sentence, Pickering did what judges do every day when they balance competing goods and examine the particulars before them as fairly as possible.

Democrats and their affiliated interest groups are understandably reluctant to let go of their characterization of Pickering as a racist and a reactionary, especially since it goes over well with donors. But a federal judge deserves to be treated as more than a fundraising tool.

If Pickering could "go out of his way" to treat a cross-burner as an individual deserving of fair treatment, surely he deserves no less from Senate Democrats. ♦

Law, Loyalty, and Terror

Our legal response to the post-9/11 world.

BY MICHAEL CHERTOFF

On September 11, 2001, acts of war were unleashed on the United States by a stateless international enemy which we know as al Qaeda. Actually, al Qaeda formally declared war against the United States during the late 1990s, but most of the American public did not pay much attention. That changed, of course, when aircraft slammed into the World Trade Center, the Pentagon, and a field in western Pennsylvania.

In the hours and days after the air attacks of September 11, several fundamental facts became apparent. First, the enemy deliberately avoided wearing uniforms or declaring itself. To the contrary, the terrorists masqueraded as students or other civilians and exploited the mobility and freedom of our society to leverage their assault. Second, there was every reason to believe that the enemy had some kind of witting or unwitting support network within the United States, which furnished al Qaeda operatives with resources such as fraudulent documents, places to live, and transportation. Whether the sources of documents, resources, and funds knew what the terrorists intended or not, the existence of these support networks created the potential for future terror attacks. Third, there was no simple way to distinguish between the vast majority of well-meaning foreign visitors and U.S. residents, and those very few but very dangerous individuals who had the intent and capacity to do great harm. This was not merely searching for a needle in a haystack—it was searching for a needle disguised as a stalk of hay.

Finally, and perhaps most significant, the American people realized that we were at war. To be sure, this was not a war in which our adversaries operated in massed formations within a discrete geographic area. But it was (and is) a war by any meaningful definition of the term. The attack of September 11 not only caused an unparalleled loss of American civilian life, but it culminated an ongoing campaign against Americans of several years' duration. That campaign included bombings of our embassies in Africa, an aborted attack on the USS *The Sullivans*, and a successful attack on the USS *Cole*.

After September 11, no one could mistake al Qaeda for a mere gang of lawbreakers. For they chose not to violate the law but to attack the law and its institutions directly. Their proclaimed goal, however unrealistic, was to destroy the United States. They used powerful weapons of destructive force and openly declared their willingness to employ even more powerful weapons of mass destruction if they could lay hold of them. They were as serious a threat to the national security of the United States as one could envision.

Because this was a war on American soil, national defense required a domestic as well as an overseas response. And, as is invariably the case in the midst of a crisis, that response was necessarily formulated with very imperfect information about the scope

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and imminence of the threat. Americans knew that the threat was not over—that the terrorists had no intention of declaring a cease-fire. What we did not know was the timing, location, and scope of the attacks yet to come. We did not know whether the assaults of September 11, as awful as they were, were a prelude to a disaster of even more tragic proportions. (As a matter of fact, even now we do not know. We cannot be sure what is to come and what we have succeeded in averting.)

In this dynamic and dangerous moment—shrouded in the proverbial fog of war—the government approach to domestic security was based on three goals: (1) enhancing our intelligence capability to predict what might happen next; (2) preventing those who could be identified as an active threat from carrying out their deadly missions; and (3) disrupting the networks and institutions from which terrorists might draw sustenance and support.

At the same time, and of equal importance, the leaders of our domestic security effort understood a principle that the attorney general himself repeatedly articulated: We must think outside the box, but not outside the Constitution. Put another way, everyone involved in formulating the response to the challenge of September 11 was acutely aware that this effort would be subject to the verdict of history, in the same way that we have rendered that verdict on the actions of our forefathers when they stepped forward to defend the country during times of peril.

I cannot, of course, render the historical judgment on the actions of the generation with which I served. I do, however, think that those who would write even a rough first draft cannot fairly do so without comparing the steps taken in our own time with our nation's past actions in facing domestic threats.

In the wake of September 11, the government quite self-consciously avoided the kinds of harsh measures common in previous wars. The exclusion and detention of American citizens of Japanese ancestry who resided on the West Coast in World War II is only the most infamous example. During the nineteenth and well into the twentieth centuries, the government responded to domestic violence with a panoply of extraordinary measures, including suppression of criticism; separate treatment of noncitizens; arrests and searches without warrants; and preventive detention.

How, then, do we evaluate the domestic security measures the government has undertaken in the last two years? There has been criticism leveled at information-sharing enhancements under the USA Patriot Act; against the establishment of military commissions; against the denial of bail to several hundred aliens who were in violation of federal immigration or criminal laws; and against the detention of enemy combatants, including U.S. citizens. How do these stack up against the historical record?

First, in our time, we have seen no government suppression of dissent or criticism. Unlike John Adams or Woodrow Wilson, George W. Bush has not prosecuted those who argue against the administration, nor has the government seized newspapers or banned them from the mails, as did Lincoln.

Second, although the Patriot Act enhanced intelligence-gathering capabilities, it did not do so outside or in violation of the framework of existing Fourth Amendment doctrines. To be sure, many of these provisions were aimed at streamlining the process of judicial review, or the exchange of lawfully obtained information. But nationwide search warrants or technological extensions of traditional pen register principles do not alter the actual scope of Fourth Amendment protections, or the standards for obtaining warrants. Even the so-called "sneak and peek" warrant—which allows agents to delay notification that they have searched premises under a judicial warrant—applies settled Fourth Amendment doctrines. Every warrant authorizing electronic surveillance, for example, allows delayed notification; otherwise, notice to a suspect that his house or office is bugged would defeat the very purpose of the surveillance.

Third, the president has established military commissions that parallel the commission established by FDR to try Nazi saboteurs caught in this country. But no one has yet been tried by a commission, and—unlike in World War II—no American citizen, by presidential order, will be subject to a commission. Most significant, the Bush administration made it clear in issuing the order that the administration anticipated courts would exercise habeas jurisdiction over commission defendants, although that jurisdiction may be limited as a matter of law. In this regard, the president rejected the view initially espoused by Roosevelt, that such commissions were wholly beyond the reach of the courts.

Fourth, there has been no evacuation or preventive detention of American citizens or of aliens based on ethnic heritage. Even in the immediate wake of September 11, the policy of the government was to seek to detain aliens only based upon evidence of a violation of criminal or immigration law that provided a basis to deny bail. Of course, individuals were detained for immigration violations in the period following September 11. These persons were identified not by ethnic background, but for some specific investigative reason. For example, individuals found in an apartment with a telephone number listed to one of the hijackers might be detained if there was a legal basis to do so. This is far different from the mass detentions of aliens and citizens of Japanese descent during the Second World War.

Finally, the government has detained enemy combatants. Almost all of these were captured on the battlefield in Afghanistan, reflecting the customary and well-accepted practice of incapacitating enemy soldiers overseas. But in one instance, a U.S. citizen apprehended in the United States has been detained as an enemy combatant. Obviously, this is not detention on the scale practiced in the Civil War. Nevertheless, of all the measures undertaken in the last two years, I venture to

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say that this is the most controversial. That is not because the individual decision was unjustified, but because it is possible to envision abuse of the power to detain persons in the United States. How does one define an enemy combatant so as to distinguish between operational agents of terrorism on the one hand, and people who are merely ideologically antagonistic to the government on the other hand? What is the role of judicial review in circumstances where the evidence may include highly sensitive classified material? How long can combatants be held when we are fighting a war of extended or indefinite duration?

This last area will be that which requires the most creative legal thinking. Right now, much of the definition of the rules is being undertaken by the courts, in a more or less ad hoc manner. But we may need to think more systematically and universally about the issue of combatants. Two years into the war on terror, it is time to move beyond case-by-case development. We need to debate a long-term and sustainable architecture for the process of determining when, why, and for how long someone may be detained as an enemy combatant, and what judicial review should be available.

What we can say is that the government's actions after September 11 reflected a consciousness of history and of the historical moment. Excesses of the past were not repeated. A balance was sought and, I hope, achieved.

That balance was struck in the first flush of the emergency. If history shows anything, however, it shows that we must be prepared to review and if necessary recalibrate that balance. We should get about doing so, in the light of the experience of our forebears and the experience of our own time.

We are at a transition point in the evolution of legal doctrine to govern the armed conflict with terror. How history will judge what has been done is for our successors to determine. The triumph is that our successors will be alive and free to determine that history. ♦

Preparing to Fight the Next War

The blind spots in the Pentagon's new plans.

BY TOM DONNELLY & VANCE SERCHUK

THE OLD BROMIDE about generals preparing to fight the last war misses the point: What military leaders can't resist is the impulse to plan for the war they'd like to fight.

The current leaders of the Pentagon seem particularly susceptible to this impulse. The idea of military "transformation" is catnip to them. Thus, even as the headlines daily report the realities of counterinsurgency in Iraq and terrorism around the world, there comes news that the U.S. military is revising its war plans for Korea, the Middle East, and elsewhere "based on assumptions that conflicts could be fought more quickly and with fewer American troops than previously thought."

So reported Bradley Graham in the November 18 *Washington Post*. He quoted Marine Gen. Peter Pace, vice chairman of the Joint Chiefs of Staff, as saying that "it has been shown so far that overwhelming force can be provided faster and with fewer individuals."

Pace is leading a study, called "Operational Availability," which attempts to calculate how increased precision striking power, information technologies, new tactics, and refinements in the positioning of U.S. forces abroad can be combined to implement what might be called the "Myers Doctrine." The idea, framed memorably by joint chiefs chairman Richard Myers in explaining the success of Operation Iraqi Freedom, is that "speed kills."

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And so it does—ask the Republican Guard or the Taliban's army. Ask Muhammed Saeed al-Sahaf—aka "Baghdad Bob," the Iraqi minister of "information"—how fast and how far American armored forces can move. Conventional military power is a wonderful thing; it destroys armies, captures capitals, and removes tyrants from their thrones. No nation has ever enjoyed anything like the conventional capabilities of today's U.S. military.

But Defense Secretary Donald Rumsfeld thinks he can wring greater "efficiencies" from the force. Pace's study, according to the *Post*, has presented Rumsfeld with more than 60 ideas for such improvements, including a centrally directed system of force allocation—presumably to measure out units in times of crisis "just in time," as in the march to Baghdad.

The idea is not simply to win quickly, but to win without allocating unnecessary forces. The war games conducted as part of the Operational Availability study concluded that today's plans are just too profligate with troops. "We had too much," one Joint Staff officer told the *Post*, "and a lot of what we had never reached the battle anyway, because it was either placed in the wrong area or couldn't be flown or shipped there in time."

There's no question that speedier wars require fewer forces. The 4th Infantry Division—stymied in its planned maneuver through Turkey into northern Iraq, shipped too late to Kuwait, then racing north just in time to miss the fall of Baghdad—reflects precisely the problem de-

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scribed by the Joint Staff officer.

Yet if the division missed the battle for Baghdad, it has hardly missed the war; six months after speed killed the regime of Saddam Hussein, the 4th Infantry Division finds itself conducting Operation "Ivy Cyclone" in Tikrit, part of the latest offensive by coalition forces to suppress the Iraqi insurgency.

In Iraq as in the larger war on terrorism and the political struggle to liberalize the Middle East, sustaining American military power for years is as crucial as applying it instantly; it does matter how quickly we get there, but it also matters how long we stay. Yes, changing this region demands more than just military strength, but as the situation in Iraq makes painfully obvious, establishing security is the first order of business.

It is also painfully obvious that the civilian and uniformed leadership of the U.S. military remain resolutely fixated on battle and, it seems, willfully ignorant about war—the use of armed force for a political purpose.

It is true that the war on terrorism is global, or nearly so, as the bombings in Istanbul remind us. And the United States has worries outside the Middle East, as in Korea or across the Taiwan Straits. There are also threats, such as those from ballistic missiles, to which general-purpose forces cannot directly respond.

But military strategy and force planning are two sides of a single coin. The United States cannot remain the principal guarantor of a global liberal order simply by flitting about the planet like Peter Pan designating targets for B-2 bombers. Rumsfeld constantly talks about "reducing the footprint" of U.S. forces overseas, but for those who have long huddled under American protection, and for those newly freed states that cannot live without it, reducing the footprint sounds suspiciously like contracting the perimeter.

To be fair to the Pentagon, force planning for what the military calls "stability operations" is inherently difficult; there are few computer programs that model counterinsurgencies. The Clinton administration's attempt to plan in this area, a 1997 effort called "Dynamic Commitment," revealed the difficulty of quantifying open-ended small wars. Unfortunately, the lesson of that study—that force size matters a lot in extended, manpower-intensive missions—was unpalatable to Pentagon leaders. The results of Dynamic Commitment were summarily ignored.

It is further true that the amazing and improving ability of U.S. forces to strike with precision from long range can result in "efficiencies" across the armed services. There are some things—tactical aircraft, for example—we have too many of. But there are more things we have too few of—most pressingly, well-trained dismounted infantry.

Secretary Rumsfeld has said it is not possible to predict with precision where the next threat will come from. But we do know where our wars are likely to be fought in the near term. President Bush, Saddam Hussein, and Osama bin Laden are pretty much in agreement on this: It's the Middle East. Yet the Pentagon continues to cling to a "capabilities-based approach" in which all wars are created equal, and speedy wars are the most equal of all. ♦

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Japan's Memory Lapses

A visit to the war shrines of Tokyo.

BY MAX BOOT

Tokyo

NINE YEARS AGO, the Smithsonian Institution caused a furor by planning an Enola Gay exhibition that embraced revisionist views of the atomic bombing of Japan, which many scholars now depict as an act of racism and barbarism. After protests from veterans' groups, the museum amended its displays to make them more neutral. That decision was a good one, but even if the atomic bombing was justified (as I believe it was), it nevertheless does us credit that many Americans remain troubled by our military's incineration of hundreds of thousands of enemy civilians.

What does it say about the Japanese character, then, that their most prominent war museum expresses a total lack of repentance for the actions taken by their armed forces in what they call the "Greater East Asia War"?

On a recent visit to Tokyo, I stopped by the Yasukuni-jinja shrine located not far from the imperial palace. Its bland name, which translates as "for the repose of the country," conceals an incendiary content. Enshrined here are Japanese war heroes, including a number who were branded as Class A war criminals by the Allied occupation.

Every year Japanese cabinet ministers and members of the royal family make a pilgrimage here, which always causes a certain amount of international consternation. The unvarying defense of these visits—akin to a German politician visiting an SS cemetery—is that the dignitaries come in their individual capacity only, and, in any case, they come to celebrate valorous deeds, not to endorse the cause in which they were committed.

AFP / Kazuhiro Nogi

Japanese veterans with an imperial navy flag, Yasukuni shrine

The adjoining Yushukan Military Museum shows how unconvincing these excuses are. It is, in essence, a two-story apologia for everything that Japan did between 1895 and 1945. During those years, Japan started at least four major wars and committed numerous atrocities as it attempted to annex Korea, China, Indonesia, the Philippines, and other parts of Asia. Tens of millions of people died as a result. Nothing the Japanese did compares to the systematic genocide carried out by the Nazis, but their crimes were bad enough, not the least being those carried out against helpless American, British, and Australian POWs, who were lucky if they survived captivity as emaciated shadows of their former selves.

There is no hint of any of this at Yushukan. The captions alongside tattered uniforms and rusting helmets are a study in amnesia. The museum all but blames the Chinese for the massacre carried out by Japanese troops in Nanking in 1938, though the actual atrocities (which killed more than 200,000 people) are never referred to. The caption, conveniently offered in both Japanese and English, merely mentions that the Chinese defenders were "soundly defeated, suffering heavy casualties." The result? "Inside the city, residents were once again able to live their lives in peace." The ones who were still alive, that is.

Americans may think that Japan started World War II in the Pacific (remember Pearl Harbor?), but the museum has a different view: It was all FDR's fault. According to another caption, the crafty American president schemed to enter the war to end his country's economic malaise, "but was hampered by American public opinion, which was strongly antiwar. The only option open to Roosevelt, who had been moving forward with his 'Plan Victory,' was to use embargoes to force resource-poor Japan into war. The U.S. economy made a complete recovery once the Americans entered the war."

Unsettling as all this is, the creepiest exhibits are those highlighting Japan's suicidal resistance in the last days of the war. The museum proudly displays a human aerial bomb ("Oka") and a human torpedo ("Kaiten"), replicas of those em-

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ployed in attacks on American ships. There is even a giant painting depicting the "Divine Thunderbolt Corps"—aka the kamikazes—"in final attack mode at Okinawa," framed against beautifully lighted clouds. There is no hint that this fanatical failure to accept defeat—which amounted to a national religion in Japan—consigned hundreds of thousands of civilians to an early grave, and for no good purpose.

One can understand, sort of, the glorification of men who willingly gave their lives in attacks on enemy military targets. But what about Japanese soldiers who raped Korean and Chinese women? What about those who killed liberal Japanese politicians in the 1930s? The Yasukuni's official website makes no distinction: "All the deities worshipped here at this shrine are those who . . . sacrificed themselves as the foundation stones for the making of modern Japan." That's like saying that Confederate soldiers were the foundation stones of modern America—which they were, but only because they were defeated. If they had won, modern America would have been unthinkable. Likewise, modern Japan—peaceful and rich—would never have come about if the militarists who dictated policy until 1945 had remained triumphant.

The views expressed at the Yasukuni are hardly universally held in Japan, but neither are they confined to a lunatic fringe. Just days before I visited the shrine, the popular governor of Tokyo, Shintaro Ishihara, who won reelection in a landslide this year, ignited a controversy by asserting that Korea had asked to be annexed by Japan in 1910—something that comes as news to Koreans, who still have bitter memories of the occupation that ended in 1945. Few Asians, indeed, would share the self-serving view expressed on the Yasukuni's website: "Japan's dream of building a Great East Asia was necessitated by history and it was sought after by the countries of Asia." Far from being sought, Japanese occupation was actively resisted by many Chinese, Vietnamese, Burmese, Filipinos, and other patriots who had no desire to be part of the Greater East Asia Co-Prosperity Sphere.

Is all this merely ancient history today? In a sense, yes. Not even the most artful romanticizers of Japan's past have any desire for a sequel. Japan remains one of the most pacifist places on the planet. It is starting to play a more active international role by participating in some international peacekeeping missions, and there is a growing movement to revise Article 9 of its Constitution, which "renounce[s] war as a sovereign right of the nation." But the Japanese are hardly embracing war; indeed, they are so wary of casualties that recent attacks in Iraq have caused them to pull back from sending support troops to help the coalition occupation.

Japan's seeming lack of repentance for its past (despite some carefully hedged expressions of "remorse" from its leaders) affects the current debate over its role in the world in two ways. First, it fosters a certain amount of unease among other Asians about a more assertive Japan. This sentiment has undoubtedly been manipulated for cynical ends by the Chinese and North Korean Communists, who have caused far more suffering to their own people than the Japanese ever did. But there nevertheless remains some genuine residual fear of Japan among its neighbors.

Second, and more important, the Japanese themselves seem rather ambivalent about their country's playing a more assertive role in the world. Polls show a slight majority in favor of rewriting the Constitution, but there is a lot of opposition. Several analysts I talked with suggested that it may not be possible to drop Article 9 altogether; the government may just have to "reinterpret" it, in order to allow Japan to build missile defenses and send combat troops abroad.

This foot-dragging is hard to figure, since Japan faces clear and present dangers like North Korea, which has roused considerable anger here by kidnapping Japanese citizens. One explanation offered by some Japanese professors is that their countrymen still fear what an unbridled military outside of effective political control might do. Such concerns might seem risible given Japan's more than half-century of democracy and pacifism. And yet, on second thought, perhaps they are not so outlandish after all: Some Japanese no doubt fear that letting the Self-Defense Forces off their leash might bring them under the control of the sort of unrepentant nationalists who worship at the Yasukuni shrine.

This is hardly an insoluble problem. The example of Germany, Japan's co-conspirator in the original "Axis of Evil," shows the answer. Germany has managed to erase pretty much all doubts about its character through a three-pronged strategy: First, making apologies, paying reparations, and banning all glorification of the Nazis. (You don't hear mainstream German politicians claiming that Poland asked to be invaded!) Second, subsuming its armed forces under NATO control. Third, merging its economy, and perhaps soon its polity, with its neighbors, via the European Union. Unfortunately, if Japan were to follow the third strategy (and there is some talk here along these lines), it might wind up becoming as beholden to China as Germany is to France today. A better prospect would be to create an Asian security structure, along the lines of NATO, that would have the United States in the lead.

Such a prospect seems unlikely now, when the Bush administration is focused on other, more urgent priorities, such as the war on terrorism. But the two are not unrelated: As we lose the support of traditional allies like France, we could use new friends willing to contribute to our larger struggle in Afghanistan, Iraq, and elsewhere. Japan, the world's No. 2 economy and a bastion of pro-American sentiment, remains an obvious candidate. It has, in fact, stepped forward to offer some help ($5 billion for rebuilding Iraq), but it could do even more if it could only put to rest the ghosts of World War II. ♦

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Massachusetts vs. Marriage

How to save an institution

By Maggie Gallagher

Last week, the long-awaited Massachusetts *Goodridge* gay-marriage decision came down—*hard*. In a 4-3 ruling, the Massachusetts high court held that the millennia-old, cross-cultural definition of marriage as the union of a man and a woman is utterly irrational. Using the lowest level of scrutiny (the "rational basis" test, which almost always results in deference to the legislature), four well-educated judges could not think up any reason other than "animus" why the people of Massachusetts and their elected representatives might not want same-sex marriage. Only a fool or a madman (or a bigot), they implied, could possibly disagree. The judges gave the state legislature 180 days to respond, presumably by revising marriage laws to include same-sex couples. At this writing, it is 179 days and counting until gay marriage comes to America.

Massachusetts governor Mitt Romney responded by endorsing an amendment to the state constitution, but given the complicated amendment process, the soonest Massachusetts citizens could vote to overturn gay marriage is November 2006.

In Washington, the decision has propelled same-sex marriage to near the top of the nation's domestic political agenda. The president immediately called for an as yet unspecified legal remedy to protect the "sanctity of marriage." There is a growing legal and political consensus in Republican circles that only an amendment to the U.S. Constitution will do. But what kind of amendment? At a Catholic University conference, a White House official pointed out there is not yet a firm consensus about what amendment to promote. Should a federal marriage amendment ban all civil recognition of gay unions, or is it enough to affirm that marriage unites a man and a woman, leaving the question of benefits for same-sex couples to state legislatures?

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There are political considerations of course: What language is most likely to win the support of two-thirds of both houses of Congress, then to secure ratification by three-quarters of the state legislatures? What language is most likely to unite (and excite) the party's base? What language will rally a majority of the people?

But behind the political debate there is a significant moral and intellectual debate. This debate is being driven in part by California's experience. Just a year after a successful drive to pass a state constitutional amendment defining marriage as a union of a man and a woman, the California legislature adopted a comprehensive civil unions package that apes marriage statutes, right down to calling the relationship between the partners "spousal." Many who fought hard to defend the age-old definition of marriage in California feel cheated and betrayed.

Are civil unions, then, no different from gay marriage itself? Is granting the legal benefits of marriage to same-sex couples the same thing as giving away marriage? And—the most pressing question of all—what is the point of defending marriage "in name only"? It is a serious question. It deserves an answer.

The place to start is with the phrase the "benefits of marriage." When marriage advocates and same-sex marriage advocates use these words, they mean two different things, reflecting two different conceptions of what marriage is and how the law helps sustain it.

When family scholars and marriage advocates speak of the benefits of marriage for men and women, for children, and for society, we are talking about the good things that happen when husbands and wives are joined in permanent, public, sexual, emotional, financial, and parenting unions. Most notably, there is now a consensus across ideological lines, based on 20 years' worth of social science research, that children do better when their mother and father are married and stay married. Here, for example, is how *Child Trends*, a mainstream child welfare organization, summed up the scholarly consensus recently: "Research

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clearly demonstrates that family structure matters for children, and the family structure that helps the most is a family headed by two biological parents in a low-conflict marriage. Children in single-parent families, children born to unmarried mothers, and children in stepfamilies or cohabiting relationships face higher risks of poor outcomes. . . . There is thus value for children in promoting strong, stable marriages between biological parents."

By contrast, when gay-marriage advocates talk about the benefits of marriage, they are usually referring to a set of legal goodies—which they often argue account for the material advantages married families display. This focus on the "legal benefits" of marriage allows them to make one of their strongest arguments: Withholding legal benefits is a form of immoral discrimination.

"Writing discrimination into the U.S. Constitution is about as un-American as you can get," David Smith, spokesman for the Human Rights Campaign, told the *San Francisco Chronicle* in September. "The senators who are supporting this amendment are in fact denying children raised in gay and lesbian households the security and the safety net that civil marriage provides. . . . That's just evil."

In the same vein, Josh Friedes, advocacy director for the Freedom to Marry Coalition of Massachusetts, told *USA Today*, "Marriage is a gateway to over 1,000 federal protections, [such as] Social Security survivor's benefits, health care, and pension benefits." Most such rhetoric relies on a 1997 GAO report that described 1,049 consequences of marriage in federal law.

Plaintively summing up the case for legal benefits, a full-page *New York Times* ad by the Human Rights Campaign on October 17 asserted: "Because the government won't give them legal protections, Jo and Teresa's children don't qualify for full Social Security survivor benefits if one of them dies, even after a lifetime of paying into the system. And if one of the kids gets sick, in some states they could even be denied the right to visit them in the hospital because they aren't 'family.' And Jo and Teresa aren't eligible for COBRA health coverage for each other or for family medical leave to care for a sick loved one."

For many same-sex-marriage advocates, marriage is basically a legal ceremony that confers legal benefits, a rite that gives rise to rights. In this spirit, the majority in *Goodridge* describes marriage as if it were a creature of the state: "Simply put, the government creates civil marriage," which is a "wholly secular institution." This reductionist vision of marriage also drives other advocates of family diversity, like the authors of the American Law Institute's *Principles of Family Dissolution*, who call marriage merely "the sum of its legal incidents." "From the point of view of family law," they say, "the distinction between a full-blown domestic partnership, like Vermont's domestic unions, and a lawful marriage is merely symbolic." Similarly, two scholars from the University of California at Los Angeles argued in the *New York Times* on November 20 that states offering civil unions "have already begun the experiment of gay marriage."

Surprisingly, many supporters of marriage seem to agree with this framing of the matter, constructed by opponents of marriage: Marriage is a legal arrangement giving rise to legal "benefits." Therefore, giving same-sex couples the "benefits" is giving them marriage itself.

What is wrong with this analysis? First, there is "the myth of benefits." The idea that the law sustains marriage primarily by dispensing legal bonuses to reward or even "incentivize" wedlock is just not true. Most of the legal "benefits" of marriage are indeed more properly described as "incidents"—ways in which the law treats you differently if you are married. Relatively few of these are unalloyed advantages. Some are benefits to one spouse and burdens to the other. Some are benefits in some circumstances but penalties in others. Moreover, some of the longstanding legal benefits of marriage are under serious legal attack. And those mentioned most often by gay-marriage proponents could probably be secured by other means.

Take hospital decision-making. Gay-rights advocates say that unless they are married, gay partners can't visit each other in the hospital or make end-of-life decisions about each other's care. Under ordinary circumstances, pretty much anyone can go into a hospital room, and patients can see whoever they choose. In life-and-death situations where there is dissent among key family members, many hospitals apparently enforce medical power of attorney poorly. Will gay marriage solve this problem? The Terry Schiavo case (her husband has spent five years trying to disconnect her feeding and hydration tubes against her parents' wishes) suggests that when families disagree, marriage is no panacea. Liability, not moral scruples, probably explains any lack of responsiveness among hospital staff. Most Americans think it a scandal if sick people can't designate whoever they want to make end-of-life decisions. Surely there are ways to strengthen medical power of attorney without recasting our most basic social institution.

Or consider the issue of creating stability for the children of unisex couples. The overwhelming majority of these children are children of divorce. Their adoption—not the remarriage of their mother (whether to a male or a female)—is necessary to create any new parental rights. As for the much smaller number of "gayby boom" families—lesbian moms having babies by artificial insemination, or

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gay couples acquiring children by adoption—it is unclear whether marriage would provide any parental benefit. In most states there is no preference for married couples in adoption law. Some even forbid social workers to "discriminate" based on marital status. The key way that marriage protects parental rights is the legal presumption of paternity: The husband is the father of his wife's baby. Traditionally, only the husband has had legal standing to challenge that presumption. For same-sex couples, the presumption of paternity does not apply. Moreover, the trend in family law nowadays is to ignore the presumption of paternity and allow biological fathers to pierce the marriage veil and assert paternity rights. Second-parent adoptions are much more important than marriage in securing parental status for gay and lesbian partners.

Lately the focus has shifted to Social Security rights. The *New York Times* highlighted the plight of a young New Jersey mother, Eva Kadrey, whose female partner died. Because they were not married, it is implied, their young son is being deprived of Social Security survivor's benefits her partner had earned. But Social Security benefits for children are not dependent on the marital status of their parents. Children of divorced or never-married parents who die are entitled to benefits. What prevents young Nicolaj from collecting benefits is that the woman who died was not his mother: In the five years or more since Eva Kadrey became pregnant, her girlfriend never applied to establish legal responsibility for "their" child, even though second-parent adoption is available in New Jersey. What reason is there to believe that a partner who failed to become a legal parent would have married if she had been able to? What is the evidence she even thought of herself as a parent, rather than a stepparent, aunty, or friend?

Gays and lesbians expecting a bonanza from Social Security once they get access to the legal benefits of marriage will be sorely disappointed. The only certain "marital benefit" from Social Security is a onetime spousal death benefit of $255.

It is true that a wife can access her husband's Social Security, both during his life and afterwards (and vice versa). But in most cases, unless a spouse has been a full-time homemaker (or close to it), his or her own Social Security benefit is higher than the pitifully small surviving spouse's benefit. When a spouse dies, the widow or widower can switch to a dead spouse's benefit if it is higher than their personal benefit. Again, unless the income of the two partners is widely divergent, the economic value of this benefit is very likely small. Certainly, it has little to do with why people marry or stay married.

According to a forthcoming analysis of federal marriage benefits by Joshua Baker of the Institute for Marriage and Public Policy, 99 percent of men and two-thirds of women who receive Social Security benefits do so on the basis of their own work history (this in a pool of retirees that includes vastly higher proportions of full-time homemakers than is usual nowadays). Because the income on which Social Security benefits are calculated maxes out at $87,000 a year, a spouse who earns as little as $25,000 a year (in 2003 dollars) will not qualify for a direct spousal benefit at all because his or her personal work benefit will be higher. Same-sex couples are more egalitarian in their relationships than opposite-sex couples, and thus are especially unlikely to reap any spousal benefit from Social Security.

What about health insurance? Yes, in the abstract, the ability to extend health insurance to a partner can be a benefit. But when both adults are working (as in egalitarian relationships), both partners tend to sustain their own health insurance. And the ability to walk away from a partner's medical debts (or qualify for Medicaid regardless of the partner's income) is a legal benefit of non-marriage, unavailable to spouses. Income caps in federal law also penalize married couples over unmarried couples.

How many gays and lesbians want or need spousal insurance benefits? I tried to find out. I asked the top ten gay-friendly companies on the Human Rights Campaign website how many employees choose to extend their health insurance to a same-sex partner. General Motors is the only one that would say. The answer was 166 employees, or one-one hundredth of one percent of all GM workers.

The couples most likely to secure legal benefits from marriage are those in prototypically traditional marriages. That is because most of what can be described as the legal benefits of marriage, though now formally gender-neutral, were designed to protect women from the risks and costs that childbearing imposes. Most research suggests that gay and lesbian relationships are most stable when the partners earn similar incomes and play similar household roles. So when gays and lesbians scrutinize the basket of legal benefits of marriage for them, they are especially likely to come up empty. The general rule in federal marriage law: The more egalitarian the couple, the more likely they are to face marriage penalties rather than benefits.

Which may be one reason why, when gay and lesbian couples are at long last offered the much-heralded legal "benefits" of marriage, relatively few are interested.

Judging by behavior, the actual demand for gay marriage or unisex civil unions appears to be low. In the Netherlands, which has offered marriage since September 2000 and full-benefit civil unions since 1998, fewer than one out of seven cohabiting same-sex couples have chosen to make the relationship official. If you compared the number of Vermont residents who entered civil unions in 2001 (when they became available) with Census 2000 data

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on the number of same-sex partners and gay and lesbian people, it looks like no more than a quarter of Vermont same-sex couples sought civil unions, which translates into 6 percent of gay and lesbian individuals (and the common complaint that the Census undercounts gays and lesbians would suggest the proportions are actually even lower). In Canada, where the courts have opened marriage to same-sex unions, gay and lesbian leaders report a surprising ambivalence about the opportunity.

When California created marriage-equivalent civil unions this year, gay and lesbian leaders expressed concern about the consequences for same-sex partners. A November 3 story in the *Contra Costa Times* reports: "But some partners looking at the financial obligations are likely to say no thanks to California's domestic-partner version of 'I do.' . . . Partners with incomes higher than their mates may balk at the risk of having to pay 'alimony' if they split up. Those who want to protect and pass on separate property, or who don't want to be liable for their partner's hefty debts, may also think twice." Meanwhile, federal "tax breaks, Social Security benefits and pensions" won't be triggered by state-level civil unions. From September 2000 through December 31, 2001, only about 10 percent of all same-sex couples registered as domestic partners. And news accounts suggest some of these, faced with marital responsibilities where they'd been promised benefits, are having second thoughts. According to the *Contra Costa Times*, "some of the 23,300 registered couples are so concerned about the new law they are likely to 'unregister' before the law takes effect Jan. 1, 2005."

In sum, the practical and financial benefits of legal marriage are largely a myth. Which brings us to the question: How then does the law help sustain marriage?

First and above all, the law helps sustain marriage by setting boundaries. Marriage, of course, is not something government dreamed up. It is a social institution older than the nation-state, older than modern property rights or contract law, older than any known institution. Law does not create marriage. But in a complex and mobile society, law plays a role in regulating it. The law

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helps sustain the institution of marriage by (a) defining who is married and (b) maintaining the basic norms of what marriage means, including sexual fidelity, mutual responsibility for children, and permanence.

By creating barriers to entry (marriage ceremonies and licenses) and barriers to exit (divorce laws), marriage law allows men and women to signal their intentions to each other. More important, by sustaining a public way of determining who is married and who is not, marriage law helps other more important players—families, communities, schools, churches—to sustain a marriage culture. Because we know who is married, we know who is committing adultery, and who is having a child out of wedlock. Because marriage is a public rather than a private act, we have a basic, common understanding of what it means to raise children in a family, to be good husbands and good wives. Without this common public vocabulary, marriage would become a private act upheld by no shared norm.

What some dismiss as protecting "merely" the word marriage is actually 90 percent of the loaf. If a married couple no longer consists of a husband and wife, we lose the shared meaning of the word; we lose the ability to speak the idea in public and be understood. Such ideas are what culture is made of. Marriage is a word, yes, but so are property, freedom, democracy, morality, and love. The Ten Commandments are made of words. The opponents of marriage understand what many of its friends do not: Capturing the word is the key to deconstructing the institution.

Many ways of doing this have been tried. For example, the law can treat cohabiting partners as married. Do this, and you can no longer tell who is married, or whether marriage matters. If the word marriage includes same-sex couples, we proponents of the marriage culture will be silenced in the public square because we will no longer have a word for the idea of marriage as we and our forebears have always understood it. Marriage is about getting the people who make the baby to stay around and love each other and the baby too. Marriage is about securing for children the mothers and fathers they need to flourish and society the babies it needs to survive.

But (some object), if we keep marriage intact while also allowing civil unions, won't the *New York Times* and *People* magazine start treating civil union ceremonies just the same as weddings? Of course they will, but they do that already, regardless of the law. And so long as the law of marriage remains clear, it is *they* who, in doing so, are speaking a private language and trying to impose it on the public, not we. If the courts transform marriage into a unisex institution, on the other hand, the *New York Times* and *People* magazine will be the ones speaking the public, normative language of the land, and it is we who will be privatized and marginalized. If the 15 words "Marriage in the United States is exclusively a union of one man and one woman" are placed in our Constitution, we can point to those who claim civil unions are marriages and say with confidence, "Not in the United States."

Even now, I can go to Vermont or California—both of which have enacted civil unions—and organize churches and communities and parents to discourage divorce, or to strengthen marriage, or to urge postponing childbearing until marriage, and I will not be promoting same-sex unions or unisex parenting. Even in Vermont and California, I can say, "Marriage is important because children need mothers and fathers," and the laws of those states do not directly contradict me. I can promote abstinence-until-marriage education in schools without endorsing alternative family forms.

Do not mistake me: In the long run, I believe that creating legal alternatives to marriage is counterproductive and wrong. But civil unions are one unwise step down a path away from a marriage culture. Gay marriage is the end of the road.

Which is why I cannot join any coalition willing to fight only for the whole loaf but certain to go down to "noble" defeat. I cannot back a coalition threatening to hold politicians hostage unless they support a constitutional amendment that would permanently ban civil unions. To win any constitutional amendment at all will require far more than mobilizing the conservative base. It will require actually changing the minds of a substantial fraction of Americans, pushing opposition to same-sex marriage from 60 percent of the public to 70 percent or more. It is possible to change minds; I've seen it done. Support for same-sex marriage is weak. Among the 30 percent or so of Americans who say they support gay marriage, only 10 percent consider it a voting issue.

But the people whose minds must be changed are not natural allies of the Christian Right. They are moderately liberal and centrist Democrats and independents. Most can be persuaded to move from supporting gay marriage to opposing gay marriage and supporting civil unions. Do we want to push these Americans away from our coalition or bring them in? To anyone who sees marriage as an absolutely essential social institution, this is not a hard choice. To protect marriage, we need to build a national consensus about the public purposes of marriage that crosses ideological and party lines.

To lose the word "marriage" is to lose the core idea any civilization needs to perpetuate itself and to protect its children. It means exposing our children to a state-endorsed and state-promoted new vision of unisex marriage. It means losing the culture of marriage. And there would be nothing noble about that at all. ♦

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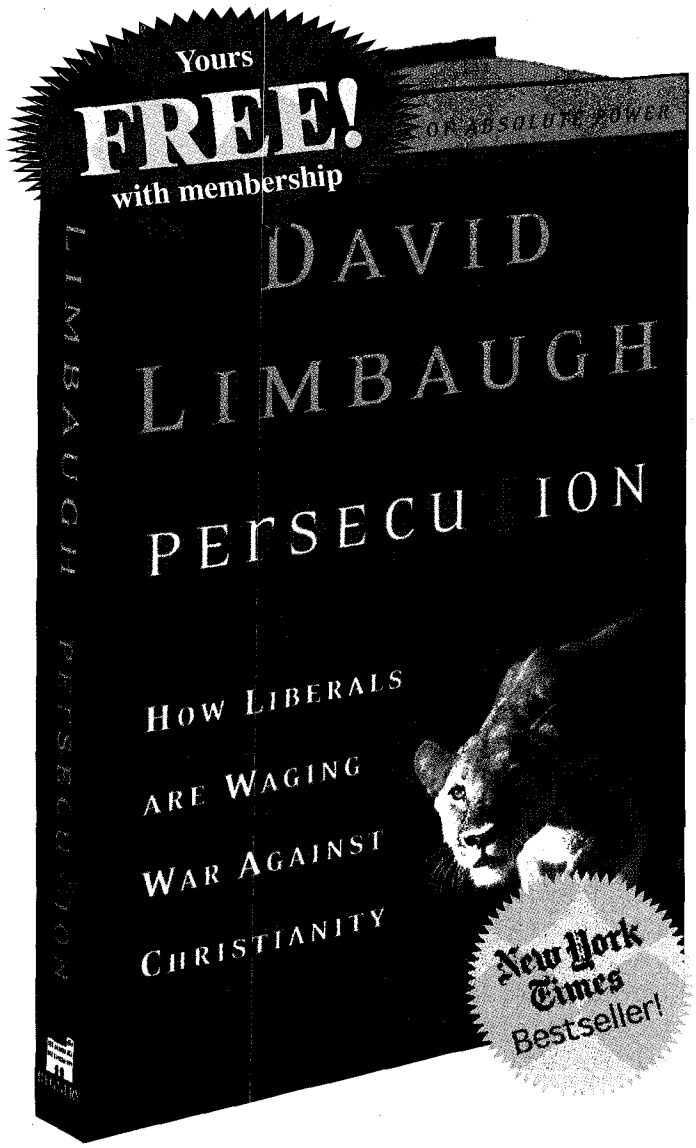
CHRISTIANS PERSECUTED? IN AMERICA?

OPEN YOUR EYES—IT'S HAPPENING RIGHT NOW!



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The Place of Painting

El Greco crosses the Channel to join the Hudson River School at the Met

By THOMAS M. DISCH

El Greco's portrait of Cardinal Guevara (1600-1601), Metropolitan Museum.

El Greco is an anomaly. He was the most extremely mannered of Mannerist painters—yet he lived outside that tradition, having merely bumped into it in Italy on his way from Greece to Spain. He learned to paint icons in the outmoded fashion of a dying empire, and he adapted it to the needs of a different empire that was just beginning. He advanced a tradition of art—the Venetian school—to its high-water mark, but the artists of that tradition would never know it and would not much have liked it if they had. He was admired in the Spain of his time but then quickly faded into cultural invisibility, a part of its ecclesiastic fabric like the stonework of the churches' walls, only to bloom again as eyes quickened by the Impressionists and Cubists saw him in a new—and incandescent—light. He became the twentieth century's quintessential modern Old Master.

El Greco's thrones and dominions are visiting the Metropolitan Museum in New York through January 11. But how different they seem. Jorge Luis Borges once wrote a story about a man named Pierre Menard who was rewriting *Don Quixote*—word-for-word identical to Cervantes's novel, but utterly different because Menard is writing as *our* contemporary.

The El Greco at the Metropolitan is the painterly equivalent of Pierre Menard: not really the Greek-Venetian-Spanish genius who worked from 1570 to 1610, but a modern painter who has been to school with the Fauves, the Cubists, and the Blue Rider group. Torn from their intended context, where they were meant to provoke an eight-cylinder reverence, the paintings provide a genuine aesthetic pleasure. But for El Greco and his patrons (almost always the Church), such pleasure was just a secondary effect—like the euphoria produced by morphine in a man undergoing surgery.

Now, in a strange New World beyond his blue horizon, bathed in a light that rather dims his peculiar fires (as a candle flame vanishes in sunlight), he is ours to enjoy and misunderstand. Although not altogether, for the exhibition includes a whole room of his portraits, which are not so different from those executed by, say, Titian. The exception, from the Met's own collection, is the menacing figure of Cardinal Guevara, Spain's Grand Inquisitor, glaring at us through black spectacles, his left hand clawing the arm of his throne.

That portrait is as near as El Greco lets the real world trespass on his private property, where only saints and

Thomas M. Disch is a poet, novelist, and art critic.

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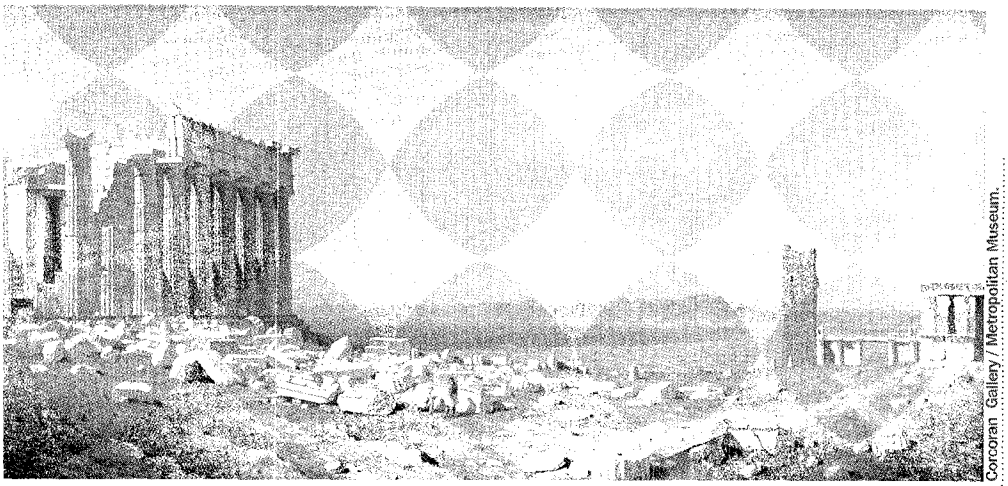


Corcoran Gallery / Metropolitan Museum.

The Ruins of the Parthenon *by Sanford R. Gifford (1880).*

angels dare to spread their wings. None of them "tread," for in El Greco's realm, gravity is an on-again-off-again law. Prayer exerts a buoyant force, and faith quivers all the draperies. Clouds roil and lightning flashes, and the light comes directly from the painter's brush. From his brief glimpses of Caravaggio, El Greco had learned how to chiaroscurize a tableau so that it would haunt its appointed gloom in some chapel, ready to leap forth as the viewer drew near, like the specters in an amusement park's tunnel of horrors.

If that seems to lack the decorum of "Fine Art," such was El Greco's intention, as it was the intention of the Church during the Counter-Reformation. Heaven was not all blue skies and angel choirs. El Greco is the patron saint of psychedelia and glorious excess, of Rilke's beauty that "we can barely endure" and that we worship because (like that Inquisitor) "it serenely disdains to destroy us."

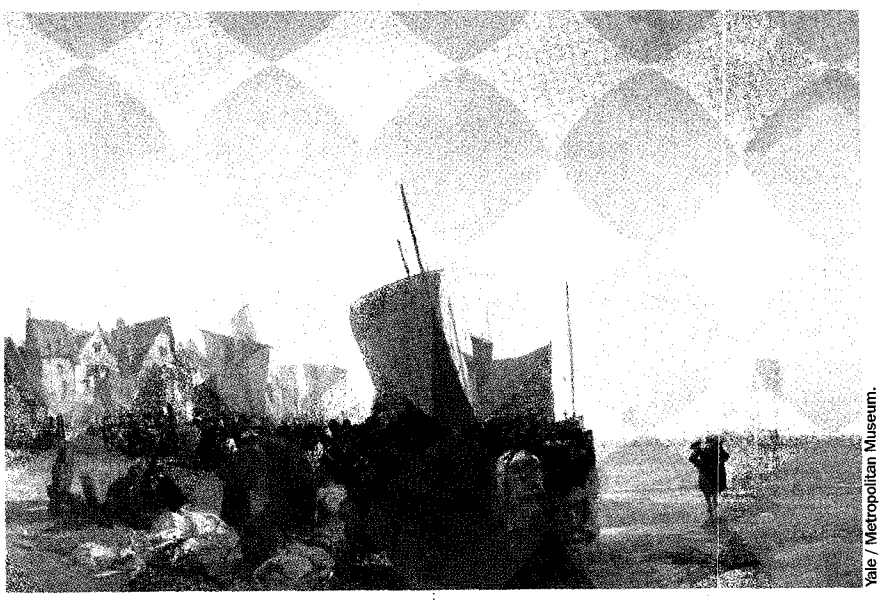
His vision is sweetened a bit by the Church's assurance that there is sound dogma behind these tumbled draperies and elastic limbs. But imagine coming upon the paintings outside the assuring context of a church or a museum, as though they'd been painted on the cave walls of Lascaux. (That is not too far-fetched a fancy, for El Greco often throws in a boulder at the bottom of a picture, as a foil to his black skies.) With their expressive distortions, flashes of nudity, and dream-like evocations of flight, they are as trippy as painting gets. Michelangelo and Raphael, by comparison, are garden gnomes: muscle-bound, earthbound, physical. El Greco is nothing if not metaphysical.

The sheer number of El Grecos the Met has amassed for this exhibition is a testimony to the power and the glory of the dollar, and even if you don't *like* El Greco (and many art lovers cringe at the name) you shouldn't miss the chance to see it while it's here. A trip to Madrid, Toledo, and the Escorial would cost at least a couple thousand more, and there you would not have the Met's demystifying, high-wattage light.

Be warned that if you go to see El Greco, you should probably take in the exhibition of Sanford R. Gifford's landscapes, also showing at the Met (through February 8). Gifford is as quiet a painter as El Greco is loud, and his work is as lacking in variety as the most austere vegetarian restaurant. Of few other painters would it be as true to claim that if you've seen one you've seen them all. That one is gorgeous, and I'd love a Sanford Gifford I could call my own, but seventy? I haven't that large an appetite.

In some ways Gifford is harder to view empathetically than El Greco, simply because there is nothing in his life and little in his work to excite curiosity. He is a man without a myth. Born in 1823 into a prosperous New York family, he left school at twenty-one to study painting, exhibited his first work at twenty-four, was celebrated, and continued painting to his death at age fifty-seven. He got to Europe a few times, but it didn't make much of a dent.

Early and late he painted in the approved style of the Hudson River School: lucid luminous landscapes featuring distant vistas of lavender skies and peace in the valley. No other painter of the Hudson River School can boast so pervasive and genteel a calm. Even Gifford's sunsets are muted. The human figure is usually absent or tucked away in a corner to represent the lucky onlooker: The art trade, then as now, preferred its landscapes unpopulated. If Gifford had one signature peculiarity it is width. He loves a canvas of CinemaScope, or wider, proportions, the better to stretch his horizons (invariably just a little below dead center) into something like a diorama. Only the most baronial of halls could have accommodated canvases on such a



Yale / Metropolitan Museum.

A Fishmarket Near Boulogne *by Richard Parkes Bonington (1824).*

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scale, but apparently there are still enough baronial halls in this postmodern world for a good part of the pictures on view to have come from private collections. Without belonging to a family with old money, you're unlucky to see these paintings again any time soon.

The Met's third art event of the new season is the one most likely to be a great entertainment: the drably entitled "Crossing the Channel: British and French Painting in the Age of Romanticism." In the pre-Chunnel era, crossing the English Channel was never a lot of fun and often enough an ordeal, for which the mascot painting of this show—Géricault's *Raft of the Medusa*—provides a suitable emblem: the luckless, starving, half-naked survivors waving their underwear at their far-off rescuers in what has to be the plumiest, most melodramatic potboiler this side of the Sistine Chapel.

Things had changed by the time of Géricault. David and other painters of the Napoleonic court insisted on neoclassic decorum and dignity, which meant that only Christian martyrs and Greek warriors could suffer visibly in their paintings. Further, skies were to be blue, as in the bright paintings of the Renaissance, and compositions balanced like a butcher's scales.

These restrictions were theoretically indefensible and even, for a painter, counterintuitive, and so it is hard for modern eyes to see these paintings as defying convention in any way. If anything they seem conservative, not to say fusty, and their pleasures derive from that very fact. We can relax into these storybook dioramas and halcyon landscapes as into a plush sofa, forgetting the scolds who want art to "challenge" us. We sail away into the lurid cloudscapes of Paul Huet or wet our mental toes in Bonington's beachside *Fishmarket Near Boulogne*.

Richard Bonington was the John Keats of English painting, an artist of prodigious and precocious gifts who died young—but not before, as this show attests, he'd made his mark on both sides of the English Channel.

English-speaking peoples are so used to thinking of France, and Paris especially, as being the source of high art for the last two hundred years that it comes as a shock to realize that in the 1820s and 1830s the debt ran in the opposite direction. The passion that had sprung up in England for watercolors spread to the French and helped them loosen up. The English example was essential to the lighter palette and livelier brushwork of Impressionism. Even Constable and Turner, who seem to us landscapists of a heroic order, had lessons for the French: Landscapes need not have the Arcadian patina of a Claude Lorrain; they could show ordinary farms (like Constable's lushly rustic *The White Horse* from the Frick) and seas raging like King Lear (John Marin's *Deluge*, on a visit from Yale).

Metropolitan Museum

Raft of the Medusa *by Théodore Géricault (1819).*

Not every Romantic exercise in *terribilità* was a success; some were just terrible, and Delacroix provides prime instances of both extremes, with a wonderful over-the-top version of his tribute to Byron's *Sardanapalus* (which looks like Géricault's turbulent *Medusa* transported to a harem) and a perfectly silly watercolor illustration to Scott's *Bride of Lammermoor*, with a topless Lucy bug-eyed beside the husband she has slain, both of them as anatomically incorrect as anyone in a Dick Tracy comic strip.

The pleasure of seeing good painters illustrate classic literature is almost lost to us today, and "Crossing the Channel" is a reminder of what has been lost by the proscription of imagery from literature and history. There is a great big murky Delacroix from the Philadelphia Museum that shows a scene from my favorite Gothic novel, *Melmoth the Wanderer*, and two small oils by Bonington illustrating *Quentin Durward* and Goethe's first tragedy, *Goetz von Berlichingen*. Bonington's Goetz is a swarthy man in full armor—and a flashy skirt of what looks like gold lamé.

That mix of gorgeous color, high seriousness, and inadvertent silliness keeps one a little off-balance all the way through the show, as though one were traversing a spinning barrel at a fairgrounds. The crowds who flocked to the Guggenheim to witness similar hijinks performed by Matthew Barney should be able to take "Crossing the Channel" in their stride if only they allow themselves to appreciate the bravura of oil painting.

Think of it as transgressive, and you can have a guiltless good time. Or think of it as a night at the opera or the ballet, where the grand manner has never fallen into disgrace. Where, indeed, the same thundering good tales from Goethe, Scott, and Shakespeare still shiver our timbers and tingle our spines. ♦

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Love at Langley

Claire Berlinski's comic novel about the romance of spying. BY STEVEN LENZNER

In *Loose Lips*, Claire Berlinski has written a story about the CIA's training school. Then again, one might equally well describe the novel as a love story about the ex-Sanskritist Selena Keller. What allows Berlinski to weave the two stories together is her insight into the odd kinship between romance and spycraft. *Loose Lips* is a primer on the moral ambiguity of seduction.

Loose Lips
by Claire Berlinski
Random House, 255 pp., $21.95

The story begins with Selena's decision to become a spy. Less than enthusiastic about her prospects in the cutthroat world of Sanskrit studies and "teaching at some godforsaken Midwestern university—a place with a name like Mongeheela State," Selena, on an impulse, applies to the CIA. "I got the job the way you get a job anywhere: I answered an ad on the Internet."

To her surprise, she receives a phone call inviting her to an interview: "'Your résumé is a bit unusual for us, . . . but you have overseas experience and a great education, and that's something we like to see. And we're always looking for people with foreign languages. I see you speak Sanskrit and Pali.' 'Well . . . ' I coughed. 'Well . . . yes.'"

Selena thus passes, if a tad shakily, her initial test in economizing truth, in the process providing a novel explanation for the dearth of language specialists in our intelligence community. And once she gets into the spirit of the exercise, she demonstrates Clintonesque ability for imaginative representation of youthful experimentation in tobaccoless smoking: "I'll never know how I got through that background investigation. Mind you, I didn't really have any skeletons in my closet. . . . But I'd smoked a *lot* of dope. For God's sake, I was a Sanskritist. . . . When the background investigator, a gray man in a gray suit, came, he asked me *exactly* how many times I'd ever gotten stoned. . . . I searched for a number that sounded plausible but not excessive. 'About ten?' 'Are you sure of that number?' 'Um, . . . it's a little hard to remember. It was a while ago. Maybe less?'" Selena has an innate talent for deceit. She's a natural.

Selena's narration of her educational and romantic adventures at "the Farm" retains a nice comic air. And the account of her training to be a case officer has the ring of truth. A case officer is one who recruits and runs foreign "assets"—that is, induces others to betray their country—and it is an inherently seamy profession.

Selena and her fellow trainees' introduction to recruitment is an unintentionally amusing lecture that sounds as if it were being recited "from some unwritten manual on high-school courtship." The process of recruitment is "a game of guile and forbearance, akin to coaxing an honorable woman into an illicit affair."

Berlinski clearly brings forth the moral ambiguity inherent in the activity of spycraft: "The ability to bend a man to one's will, all the while convincing him it was the other way around, was the hallmark of a good case officer. Rarely did anyone at the Agency remark that this was not necessarily the hallmark of a good human being." Yet Berlinski never falls into the cheap moralism that divorces the unsavory means from the ends for which they are necessary—self-preservation and the protection of liberty.

At the same time Selena is undergoing training in recruitment she is being recruited by Stan—an overweight, purportedly brilliant, fellow trainee who goes to great lengths to win Selena's love, with mixed results. In the process, Stan employs the very techniques Selena and he are being taught. His efforts to court Selena include reading what he later describes as "that god-awful Sanskrit literature," adopting her habit of smoking (a heroine who smokes!), and assuring her that she's "far more intelligent than anyone else here."

Similarly, during a training exercise in recruitment, Selena enthusiastically praises with questionable sincerity, a page-turning volume called *A Tour of the Calculus*, something none of the other trainees are likely to read. (It is probably worth mentioning that there is a real book called *A Tour of the Calculus*, by a man named David Berlinski, quite coincidentally Claire Berlinski's father, and that both father and daughter have written for THE WEEKLY STANDARD.)

The most serious shortcoming in *Loose Lips* is Berlinski's depiction of Stan as Selena's love interest. Although the text often proclaims his brilliance, Stan altogether lacks the qualities one associates with brilliance—above all, unusual insight expressed with quickness and wit. Rather than brilliant and high-minded, Stan comes off as arrogant and petty, a man possessing the twin vices of self-righteousness and humorlessness. One can only hope that Selena will do better in the future.

Still, *Loose Lips* captures well the character of courtship, its feints, fits, and starts. In courtship, as in espionage, honesty is not the best policy. Yet unlike espionage, love can be made sublime because the seaminess inseparable from its origin is capable of being transformed—at least to a considerable extent—into the qualities of genuine friendship. ♦

Steven Lenzner is a fellow at the New Citizenship Project.

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Back in the GDR

Victor Grossman longs for the return of communism to East Germany. **BY HARVEY KLEHR**

It has been more than a decade since the collapse of East European communism, so perhaps it is not surprising that a university press in the United States should think it time to publish a nostalgic memoir about life in East Germany during the Cold War. As an added attraction the book is written by an American Communist who deserted from the U.S. Army in 1952, fled to the Communist side of the German border, and still admires the repressive regime to which he devoted his life. Victor Grossman's *Crossing the River* is a work of moral squalor and political blindness, the story of a man stuck in an ideological time warp.

Crossing the River
A Memoir of the American Left, the Cold War, and Life in East Germany
by Victor Grossman
University of Massachusetts Press
352 pp., $22.95

During the Cold War the vast majority of people who fled their countries were escaping from Communist regimes. East Germany built the Berlin Wall in a desperate effort to prevent its citizens from escaping repression and economic failure. Only the threat of the Red Army propped up these deeply unpopular governments. When Mikhail Gorbachev withdrew that pillar and Communist regimes behind the Iron Curtain opened their borders in 1989, they all collapsed.

Still, a handful of people fled in the other direction. Some were committed Communists, seeking the utopia their doctrine told them was in full bloom. Others—like Big Bill Haywood, the leader of the Industrial Workers of the World, who jumped bail and fled to Russia in 1919—were looking for escape from pressing problems back home. Victor Grossman combined these causes: a committed Communist with a very serious personal problem.

Born in New York in 1928 into a lower-middle-class Jewish family with radical leanings, "Stephen Wechsler" (his name before he changed it to Victor Grossman) had the benefit of an excellent education, courtesy of a determined mother. A scholarship student at the Dalton School and the Ethical Culture School, he also attended the Bronx High School of Science, and was a Communist partisan by the time he was thirteen, attracted, he claims, by the party's role in the Spanish Civil War and undeterred by its alliance with Nazi Germany. He formally joined the American Communist party in 1945 as a student at Harvard and worked diligently to advance its causes. He threw himself into efforts to infiltrate the Harvard Liberal Union, traveled to Prague as a delegate to a Communist Youth Festival where he blindly defended Soviet foreign policy, and campaigned for Henry Wallace. After graduating, he became a party worker, sent to Buffalo where he spent seventeen mostly futile months trying to organize workers before being drafted into the Army.

Grossman admits that he "did not benefit enough from my Harvard education, mistrustful as I was of theories taught in economics, political science, and history." He's not kidding; he insists that during the 1940s and 1950s, "as for the tragic repression inside the USSR, I knew little." Even today he's not the best guide to either Soviet or American history. He still thinks that in the late 1940s, "every Communist was required to register as a foreign agent." Perhaps such misperceptions and paranoia accounted for his decision to commit perjury in 1951, when upon being inducted into the Army, he swore that he had not been a member of a variety of groups including the Communist party. After basic training, he was shipped to West Germany where he worked as a radio telegrapher. In 1952, less than a year before his stint was up, he received a letter from the Judge Advocate-General's Office, ordering him to report to a military court to answer charges that he had lied under oath.

Had he done so, Wechsler would probably have been given a general discharge under honorable conditions. He panicked, however, and deserted, taking a train to Austria and then swimming across the Danube River to the Russian zone, where he encountered a cultural Eden that Americans could only envy. "The simplest-looking Soviet soldier, seemingly primitive in some ways, knew of more books than any American G.I. I ever met." Taken to East Germany, he was moved to tears at the sight of a demonstration where young people called for peace.

Grossman never mentions whether he spoke with Soviet intelligence officers about his Army unit or experience, but a substantial portion of his book recounts his struggles to make a life in his new homeland. He worked for a while as director of a club for Western defectors, most of whom were drunks with German wives. Life was not easy; he was lonely, his job was stressful, leading to a temporary nervous breakdown, but he met a woman, fell in love, and got married. Workers revolted in East Germany, but the West, filled as it was with fascists, instigated the whole affair, which was based, in any case, on minor dissatisfactions and, besides, things got better. Not in America, however, where the Rosenbergs were executed, a sign that America had "been usurped by antidemocratic evil." There was no anti-Semitism in the Communist world, although he does mention that Dean Reed, his folksong-singing American friend, also an expatriate,

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faced resistance when he wanted to sing the "Hava Nagila" at a Moscow concert. Later he grudgingly admits there was some anti-Semitism but quickly adds that it has been exaggerated.

Grossman attended journalism school where he did notice "near unanimity" on major issues and was troubled by the reluctance of people to use a secret voting booth in elections for fear that they might fall under suspicion of being dissidents. Still, it was better than America, which groaned under the yoke of fascism.

Grossman's self-image is that he was always a secret dissident, too wise or skeptical to swallow the more inane or stupid rationalizations for Communist policies. When the American Communist party line dictated that the wartime no-strike pledge continue, Grossman does "not recall my views, but I hope I was skeptical." When a friend complained that the Soviets judged music by political criteria, he doesn't "recall my own confusion. But I hope I agreed with him or at least admitted my own confusion." He always had "gnawing doubts about the adulation of Stalin" but decided it was neither the time nor the place to voice them in East Germany. The Khrushchev speech detailing the horrors of Stalinism left him "confused." The Soviet invasion of Czechoslovakia left him "confused and uncertain." All this confusion and silent doubting leads him to proclaim that "I was always a bit of a Don Quixote myself."

Whatever quibbles he had with East Germany and its policies, Grossman found it far more democratic than West Germany, a place where Nazis not only found a refuge but "dominated a country." Grossman is indignant about Polish jokes because the Nazis "virtually wiped out two generations of intellectuals," but he remains to this day silent about Stalinist massacres of Polish prisoners of war. Western anger at the Berlin Wall was hypocritical; the West Germans favored those "who embellished or invented stories of repression."

Whatever minor sins could be laid on the East, poverty, violence, racism, and environmental degradation were Western traits, and capitalism and fascism remain natural allies.

Given this blinkered and besotted view of the world, it is not surprising that Grossman laments the collapse of the Communist dictatorship. The East German people were misled. Even though there was a "flagging economy, . . . a narrowness of spirit, and an intolerance of other beliefs," the people should have understood how wonderful their country was, this "flawed and tragic little republic." The only result of the collapse of East Germany has been crime, pornography, advertising, competition, lots of automobiles (he liked his Trabant), unemployment, and a new McCarthyism.

Grossman is particularly upset when some old Communist apparatchiks who expelled and repressed dissidents for years are ousted from their positions. Grossman even has a few kind words for the Stasi, the ubiquitous secret police who monitored the entire population with an army of informers. Some, he admits, could be ruthless, but, all in all, they were just "unpleasant but less frightening than now portrayed." And, anyway, one benefit of the constant surveillance was a richness to cultural life, because writers had to evade censorship or write between the lines.

After German unification, Grossman negotiated with American authorities to clear up his problems. He returned to the United States in 1994 for his forty-fifth college reunion at Harvard. After landing in New York, he was taken to Fort Dix, politely given a general discharge from the Army he had deserted years before, and soon got an American passport. He returned to Germany where he will be able to live out his life pining for the repressive, dysfunctional little dictatorship that his adopted countrymen have decisively rejected. ♦

A Home for Words

The making of the Oxford English Dictionary.

BY MARGARET BOERNER

In *The Meaning of Everything*, Simon Winchester takes as his subject the making of the *Oxford English Dictionary* and its eccentric editors and even more eccentric contributors, the Victorian working conditions and privileges that supported those who worked on it, and its triumphant publication in spite of vigorous and frequently bizarre obstacles.

The Meaning of Everything
The Story of the Oxford English Dictionary
by Simon Winchester
Oxford University Press, 260 pp., $25

That it ever got done at all is a great achievement. English has more words than any other language—for various historical reasons, beginning with the fact that the British Isles were successively colonized by Celts, Romans, Angles and Saxons, Danes, and the Norman French. Individually, each language contributed words to modern English—Anglo-Saxon and French, more; Celtic (*breeches, pool*) and Latin (*wine, butter, pepper, inch*) less. And taken together, these sources combined to help establish the distaste in English for synonyms.

Among linguists, in fact, English is notorious for this phenomenon of desynonymization, in which each word brought into the language means something more, often much more, particular than it did in its original. Thus, for example, *studio* and *study* both come from the Latin word

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studium (via Italian and French, respectively) and both mean "a place to do mental work." In any sensible language, that would be the end of it. But English can't stand for two words to mean the same thing, and so we distinguish the words into rooms for two different species of mental work. As a result of this desynonymizing process, there are no true synonyms in the English language—except, it is said, for *furze* and *gorse*. Such particularity drives nonnative speakers crazy. Indeed, the ordinary English speaker needs at least twice as many words in his active vocabulary as speakers of other European languages.

The diverse vocabulary of English resulting from its various colonizers was augmented during the Renaissance by scholars' and artists' determination to bring into the language as many new words from Latin and Greek as possible in order to achieve the "rebirth of learning."

Curiously, English greatly expanded its vocabulary at the same time as the French were attempting to cast out all "foreign" words as a part of their rebirth of learning. Thus, the single word *conscience* in modern French serves where English demands three different words: *consciousness*, *conscience*, and *conscientiousness*—a three-to-one difference between the two languages, which is about what the average speaker in each would use.

English has continued to bring foreign words into the language as a matter of habit, helped by the British imperial conquests and the spread of American commerce. Meanwhile, as James Murray, editor of the first edition of the *Oxford English Dictionary*, remarked in his article on the "English Language" for the *Encyclopaedia Britannica*, words that were once technical words seem to pass naturally into common use: "*Ache*, *diamond*, *stomach*, *comet*, *organ*, *tone*, *ball*, *carte* are familiar, once-technical. Commercial, social, artistic or literary contact has also led to the adoption of numerous words from modern European languages. . . . Thus from French *soirée*, *séance*, *dépôt*, *débris*, *programme*, *prestige*; from Italian *bust*, *canto*, *folio*, *cartoon*, *concert*, *regatta*, *ruffian*; from Portuguese *caste*, *palaver*; from Dutch *yacht*, *skipper*, *schooner*, *sloop*."

All pictures Oxford University Press.

James Murray in his scriptorium

And yet, despite these natural English tendencies, no one, not even its originators and editors, guessed that English contained hundreds of thousands of words—until the *Oxford English Dictionary* finally put out its first edition in 1928. All previous incarnations of the English dictionary—a new literary form started in the seventeenth century—depended largely upon the author's command of words. Even Samuel Johnson's great 1755 dictionary, a household staple in England for two centuries, was founded essentially on the words Johnson knew as an educated man (with a little help from his friends).

The *Oxford English Dictionary* proposed instead to register *all* the words in the language. And so the editors recruited volunteers to peruse books, pamphlets, periodicals, and technical writings from the earliest days of modern English. The material to be read was divided into three periods: 1250-1526, 1526-1674 (here Cruden's *Concordance* to the King James Bible was invaluable), and 1674 to the present. Thus, it was thought, one could find lines illustrating every word in each of its senses, including the earliest sense of the word when it came into the language.

Readers would send in slips that cited and quoted the passage in which they had found an "interesting" word. Workers at Murray's "scriptorium" sorted the slips alphabetically, and editors determined from the sentences in which the word appeared its first meaning and subsequent development. In other words, the *Oxford English Dictionary* was to be what its subtitle declared it to be: *A New English Dictionary on Historical Principles*. It was designed not to prescribe how a word should be used, but rather how a word is in fact now used and how it had been used at the beginnings of the modern language.

The project, besides taking more time and discovering more words than had been thought, had great difficulty finding good readers. Readers would refuse to follow directions and send in their quotations on the backs of old envelopes, train tickets, discarded letters, or torn-off tops of newspapers. They would scribble so that their handwriting could not be read, or spill tea over the slips they sent in, or be such terrible spellers that their quotations were suspect. Some of them got bored and stopped sending in slips, a few had nervous breakdowns, and

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The OED's longtime compositor, James Gilbert.

many of them tried to impose their own notions of correct speech on the quotations. One of the best readers was a murderer writing from the insane asylum, and another was a very eccentric and bitter hermit.

An early editor, Frederick Furnivall, declared all his readers "worthless," but he himself, says Winchester, "had quite entirely lost the will and concentration that was necessary to run the project, and had quite frankly lost track of all the scores of volunteers, the hundreds of thousands of slips, the pages of schedules and proofs and specimen pages and type designs, and other details of dictionary assembly."

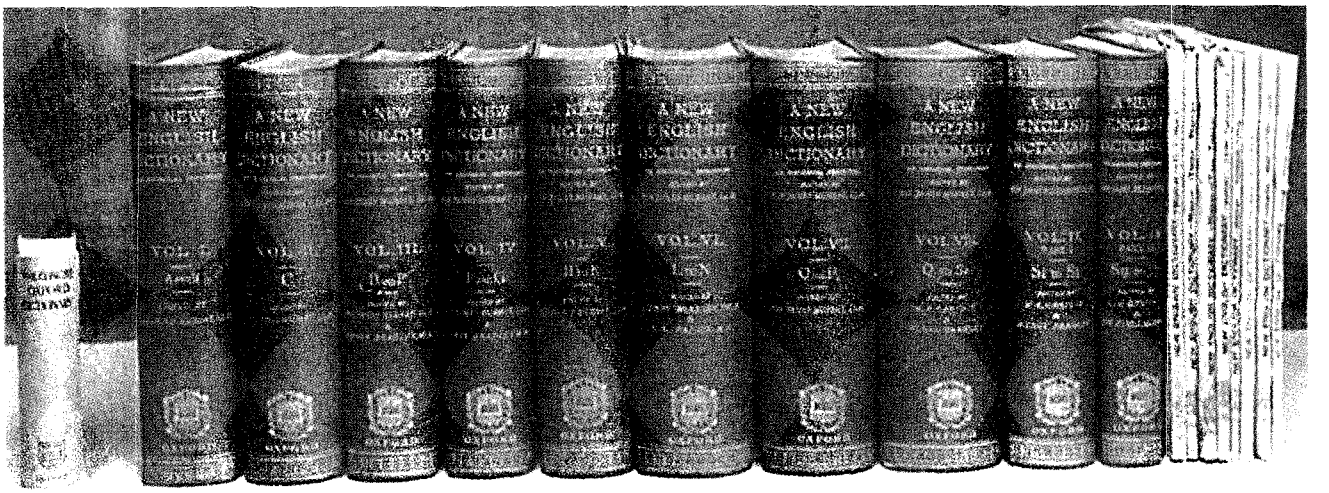
When James Murray, its final editor and the one who saw the project to fruition, started on the *Oxford English Dictionary*, two million slips were missing. When many of them were recovered, he declared of some slips that "it would have been far better for them to have been written in Chinese, since he could always obtain the services of a translator." By the end, there were some six million "good" slips.

Seventy-six years passed from the beginning to the publication of its final volume (1852-1928), from *a* to *zyxt* (a dialect form of *seen*). Words beginning with *s* are most numerous and required two volumes. The second largest is *c*, which has about as many words as *a* and *b* together. Wherever possible, lines from the earliest author to use the word were quoted. Each word was divided into its separate meanings, and etymologies were given.

Critics often note that the *Oxford English Dictionary* is too expensive to appeal to anyone but libraries, and the lines and authors cited often do not, in fact, represent the oldest use of a word. For those who don't have Greek, Turkish, Arabic, and other languages which don't use the Roman alphabet, it is extremely irritating that no transliteration of the foreign lettering is given. The *Oxford English Dictionary* has little interest in Indo-European roots and does not relate words to them, as do college dictionaries in the United States. Furthermore, a well-made dictionary will not only list the meanings of a word in chronological order, but give definitions that reveal the process by which one meaning changed into the next—as does, for example, *Webster's New World Dictionary*. Ideally, a dictionary will also have frequent "synonymies" which distinguish words near each other in meaning, for example *grandiose*, *ostentatious*, *pretentious*, *pompous*, as does the *Random House Webster's College Dictionary*. None of these would violate the principle of discussing words on the basis of "historical principles."

Still, this is mere caviling. No subsequent dictionary, however well put together, is not indebted to the *Oxford English Dictionary*. Simon Winchester's *The Meaning of Everything* is a lively book, and it is studded with curious facts, eccentric persons, and comical events—a popularization of what is known about the making of the *Oxford English Dictionary*. Winchester's prose, however, is moribund, filled with mixed and dead metaphors and solecisms that his subject might have talked him out of. For example, he tells us that Murray "wrote in some kind of elegant copperplate" (was it elegant or not?); that when Murray died, his colleagues were left "to suffer the peace of their bereavement"; and that it was not difficult "to write in *fulsome* terms" (when he means *laudatory*).

But *The Meaning of Everything* is well worth reading nonetheless, for the making of the *Oxford English Dictionary* is one of the great episodes in human history. ♦



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"Oh, Frank—you write such a fearless letter to the editor."

Books in Brief

***General Washington's Christmas Farewell: A Mount Vernon Homecoming, 1783* by Stanley Weintraub (Free Press, 224 pp., $25).** In 1783 the greatest military in the world had been outwitted and defeated at the hands of a popular rebel leader. Yet, at the moment of victory, when a continent lay at his fingertips, the leader gave up power and voluntarily returned to private life. Napoleon, having seized a crown and a continent and lost both, would later lament: "They wanted me to be another Washington."

General Washington's Christmas Farewell tells the story of the American reoccupation of New York. It describes the famous scene of Washington taking leave of his officers at Fraunces Tavern and culminates with Washington's appearance at Annapolis to return his commission to Congress. Washington's brief speech on the occasion, Stanley Weintraub tells us, was "the most significant address ever delivered to a civil society."

Unfortunately, that significance is not explained in Weintraub's charming account. Missing are accounts of key letters and writings (such as Washington's circular address to the states in June, or his farewell orders to the Army in November) and explanations of essential events (such as the Newburgh crisis in March). These connect Washington's thoughts with his actions and reveal the larger republican project of which Washington's military resignation was part. Without all this, the Christmas farewell seems merely, as Weintraub says, a "piece of consummate theater," in "a moment of consummate drama," by "a practiced actor making his final exit."

Even in telling great stories, writers often fail to see the real drama in history. There is almost a sense of inevitability, as if the big questions had already been answered, that limits their viewpoint.

"Few who are not philosophic spectators," Washington once observed, "can realize the difficult and delicate part which a man in my situation had to act." Such is the problem with most Washington scholarship, and more generally with studies of great statesmen.

—Matthew Spalding

***Affirmative Action and Racial Preference: A Debate* by Carl Cohen and James P. Sterba (Oxford University Press, 394 pp., $30).** Nothing breeds enmity like affirmative action. The arguments on both sides of the issue of whether to give preference by race are familiar. Notre Dame philosopher James Sterba writes that, given the varying reactions to the Supreme Court's June decision validating preferences in university admissions, "The controversy surrounding affirmative action and racial preference in the United States is sure to continue for some time to come."

Carl Cohen agrees. He surmises that the Michigan affirmative action decisions—one striking down a regimented point system and the other allowing diversity preferences—will foster further confusion and underhandedness as they pull against each other. Cohen, whose freedom of information request led to the lawsuits against the university, attacks both the "wrongness" and the "badness" of preferences. Though perhaps original only in couching it in those terms, Cohen's attack is a professor's cry against the decline of standards necessitated by the admission of students who don't deserve it. "University representatives always *say* that the striving for excellence is their governing principle," Cohen writes. "But this is no longer true in America's premier universities, and it has not been true for decades."

Sterba, who is more embracing of affirmative action than the University of Michigan dared be, answers the objection to lowered standards with the attitude Cohen sees as part of the problem. He says candidates admitted should be those "whose qualifications are such that when their selection is combined with a suitably designed educational enhancement program, they will normally turn out, within a reasonably short time, to be as qualified."

—Beth Henary

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Parody

A World Trade Organization panel has declared U.S. tariffs on imported steel illegal, leading the European Union to threaten $2.2 billion in retaliatory sanctions if the penalties are not lifted immediately. The steel industry argues that it still needs the protection of the tariffs, which are not due to be phased out completely until March 2005. —News item

VINCENT HOWARD
PRESIDENT & CEO

MEMO

To: Shareholders
From: Delicately Competitive Steel Inc.

As you may know, the WTO has ignored the blatant attempts of foreign companies to hurt us by producing good steel at competitive prices. Delicately Competitive has urged President Bush to honor his pledge to make them stop it and go away during our regrouping and consolidation phase, which will take until March 2005, at least.

Some highlights of our efforts:

• Renovation. Our conference rooms are to be completely overhauled. Thanks to dual fifteen-foot plasma monitors and an 18-speaker sound system, video conferences will no longer mean strained necks or cupped ears. Aeron chairs will provide lumbar support where before there was none.

• Projection. With our new market-demand forecasting initiative, our company will bring production levels and sales results into greater "sync." This should improve upon previous forecasts, which were at times compromised by "delusionality." (See McKinsey report.)

• Steel Awareness. We're rolling out a multimillion-dollar branding campaign to boost "Steel Awareness." With proper steel awareness, American consumers may appreciate the addition of steel into their lives as a substitute for plastic, a crude polymer-based substance. We believe that shoppers, for example, will eventually tire of plastic bags and welcome the smooth sturdiness of steel.

• Research and Development. The superconductive doggy-laser (SCDL) promises to revolutionize the industry and eliminate human suffering. SCDLs run on air and moonbeams, and the only waste produced is oxygen and rainforest vegetation. With new scientists, new laser beams, and an ample supply of golden retrievers, we could make SCDLs a reality very soon. In the meantime, 800% tariffs on imports would provide crucial encouragement.

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How Well Are Teachers Doing?

Margaret E. Raymond is a research fellow at the Hoover Institution.

Good schools are synonymous with good teachers, but current methods of assessing teacher effectiveness are inadequate. Educators need a new approach to measuring teacher performance, consistent with new attention being given by policymakers to student academic outcomes. Such a shift will require an adjustment of the definition of good teachers, accompanied by changes in which aspects of teaching are considered important.

Today's view of teacher effectiveness relies on a static view of qualifications. Most states gauge teacher quality by *input* measures, what training a teacher possesses, or *process* measures, what activities or pedagogy a teacher delivers. These measures do not correlate well enough with student academic gains to be trusted as a way to assess teachers. Worse, each teacher who passes the minimum threshold is considered equivalent to any other, a commodity approach that serves them and their students poorly.

Instead, we must begin evaluating teacher effectiveness on the basis of the direct impact that teachers have on student achievement. Whatever else a teacher may provide, **we need teachers who can "deliver the goods" in terms of moving their students ahead academically**.

Only by assessing student outcomes can we get a clear measure of teacher performance. In concept, this solution seems straightforward. But we must be able to link students to their teachers and examine the impact a teacher has had on his or her students over the course of several years. Such associations require a unique teacher identification number, which is currently absent in many states.

At the same time, it would be irresponsible to treat the academic gains a teacher creates in a year's time as the sole factor in determining an individual teacher's effectiveness. Existing research indicates [illegible] contribute to student learning gains such as prior achievement and family and peer characteristics. Simple aggregations of student gains should not be relied on as a solitary measure of teacher performance.

What is needed is a way to separate the important contributions that teachers make from family, school, and other influences. It is unfair to attribute everything that goes on in schools to teachers. But our current school accountability programs do not separate the role of teachers from such things as how closely aligned a district's curriculum is to state academic standards, turnover in staffing, or new administrative leadership. Although we currently know little about the interplay of these effects, we will need to better understand them to know which factors amenable to public intervention hold the best promise for improvements in our schools.

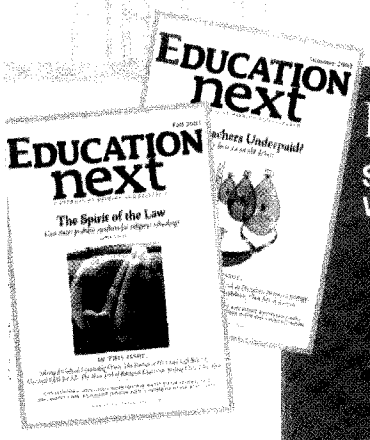
Two related changes are necessary. First, states need unique teacher identification numbers (similar to those for students) that follow them throughout pubic school service, thus enabling analyses of the value of resources and their returns on improving student education outcomes. Evaluation of curricular programs, teacher development, and new reform programs are then immediately within reach, resulting in more informed decisions about school spending. In this time of budget constraints, any means to better target existing resources is a boon.

Second, all states need to expand their data on students and teachers so that the underlying relationships among student, school, family, and teacher factors can emerge.

These vitally needed steps are missing from the good-faith efforts under way to improve our schools. For further information visit *credo.stanford.edu.*

— Margaret E. Raymond

Paid for by the Hoover Institution, Stanford University.



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For some, the letter x is a point of reference.

BUT FOR 40 MILLION, IT'S THEIR SIGNATURE.

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